15-143

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1884.

No. 241.

BEN. H. SMITH, AND L. H. SPRINGER AS ADMINISTRATOR OF WILLIAM H. TODD, DECEASED, APPELLANTS,

vs.

JOSEPH S. WOOLFOLK.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

FILED JULY 17, 1882.

START of ROLL

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1 In the Circuit Court of United States for Eastern District of Arkansas.

Be it remembered that on the 27th day of October, 1879, came into the office of the clerk of the circuit court of the United States for the eastern district of Arkansas, Joseph S. Woolfolk, by U. M. Rose, Esq., his solicitor, and filed therein, on the chancery side thereof, a bill of complaint against Ben. H. Smith *et al.*, which bill of complaint is as follows:

JOSEPH S. WOOLFOLK

vs.

BEN. H. SMITH and J. V. SMITH, his wife, C. J. GALLAGHER and E. J. Gallagher, his wife, C. Bowles and Jennis W. Bowles, his wife, John Strong and Eva Strong, his wife, Richard H. Todd, Derringer Todd, and Willie Todd.

To the judges of said court in chancery sitting:

Your orator, Joseph S. Woolfolk, who is a citizen of the
2 State of Kentucky, brings this suit against Ben. H. Smith and J. V. Smith, his wife, who are all citizens of the State of Arkansas, C. J. Gallagher and E. J. Gallagher, his wife, C. Bowles and Jennie W. Bowles, his wife, John Strong and Eva Strong, his wife, Richard H. Todd and Derringer Todd and Willie Todd, who are all citizens of the State of Pennsylvania, and says:

That on the 27th day of October, 1868, William H. Todd was indebted unto your orator in the sum of eight thousand four hundred and eighty-six dollars and forty cents, that being the amount due to your orator and his wife from the estate of Junius W. Craig, deceased, for the purchase money of one undivided fourth part of the lands hereinafter mentioned, which lands had been bought from said estate by said Todd under a decree of the circuit court in chancery of Chicot county, in which said lands lie, rendered in a certain cause therein pending, under the style of the creditors of the estate of Junius W. Craig, deceased, against Emma J. Wright
3 as executrix of the last will and testament of Junius W. Craig, deceased, *et al.*

That for said purchase-money your orator and his wife held a lien on said interest in said lands, reserved in the deed conveying the same to said Junius W. Crrig, which was recognized by said decree, and which was ordered by said decree to be paid out of the proceeds of the said sale under it; and that as said Todd desired to have further time to make payment of the amount of his bid, your orator and his wife consented on his application, to extend the time of payment if he would secure the payment of the balance due on said debt by a mortgage on said lands, as will be seen by a copy of the decree of said court rendered in said cause at the October term thereof, 1868, hereto annexed, marked Exhibit A, and made part hereof. That in pursuance of said agreement said Todd, on the 27th day of October, 1868, executed to your orator his two
4 promissory notes, both dated October 27, 1868, each for the payment of four thousand two hundred and forty-three

$\frac{20}{100}$ dollars, payable in one and two years after date respectively, with interest from date until paid, at the rate of ten per cent. per annum, and that on the same day said Todd executed his mortgage of that date to your orator, by which he conveyed unto him said lands, the same being described as follows:

All the following described tracts and parcels of land lying and being situate in the county of Chicot and State of Arkansas, and composing what is commonly known as the Bellevue plantation, and designated and described on the plans of the public surveys as follows, to wit:

The south half ($\frac{1}{2}$) of the south half ($\frac{1}{2}$) of section four (4), containing 160 acres.

The south diagonal half of the north half ($\frac{1}{2}$) of the south half ($\frac{1}{2}$) of section four (4), containing 80 acres.

All of fractional section five (5), containing 648.71 acres.

5 The east fractional half and the southwest quarter ($\frac{1}{4}$) and the south half of the northwest quarter ($\frac{1}{4}$) of section six (6), together containing 565.60 acres.

All of fractional section seven (7), containing 640.71.

The west half of section eight (8), containing 320 acres.

The west half of the southeast quarter of section (8) eight, containing 80 acres, and the northeast quarter of section eighteen (18), containing 160 acres, all lying and being in township fifteen (15) south of the base line, in range one west of the fifth principal meridian.

The condition of said mortgage being that if said notes should be paid off, according to their tenor and effect, said conveyance should be null and void; else that the same should remain in full force and effect. Which mortgage was filed for record in the recorder's office of said county on the 29th day of October, 1868, as will be seen by a copy thereof hereto annexed, marked Exhibit B, and made part hereof.

6 That your orator having assigned said note last falling due to H. G. Craig, the said Craig, on the 16th day of October, 1875, brought suit thereon in the circuit court of Owen county, in the State of Kentucky, against said William H. Todd; that during the progress of that suit said note was re-assigned by said H. G. Craig to your orator, and upon a proper application and order in said proceeding your orator was substituted as plaintiff therein in lieu of said Craig; that said Todd was duly impleaded in said suit, and the cause coming on to [be] heard on the 20th day of November, 1878, it was decreed that your orator recover of said Todd the sum of four thousand two hundred and forty-three dollars and twenty cents, with interest thereon at the rate of ten per centum per annum from the 27th day of October, 1870, and all the costs of that suit, and costs

7 of suit, which costs amounts to the sum of ——— dollars, all of which may be seen by reference to a copy of said proceedings and decree herewith filed, marked Exhibit C, and made part hereof. And plaintiff says that no part of said monies in said decree mentioned have ever been paid.

That since said decree was rendered said William H. Todd has died intestate, leaving as his only heir-at-law said J. V. Smith, now

wife of Ben. H. Smith; E. J. Gallagher, now wife of C. J. Gallagher; Jennie W. Bowles, now wife of C. Bowles; Eva Strong, now wife of John Strong; and Richard H. Todd, Deringer Todd, and Willie Todd; and that there has been no administration of the estate of said William H. Todd, and that said Smith and wife are in the exclusive possession of said lands.

Your orator prays that said defendants may be required to answer this bill, that the amount due on said decree may be de-
8 clared to be a lien on said lands, and that in default of payment thereof by said defendants, the equity of redemption of said defendants under said mortgage may be barred and foreclosed, and that said lands may be sold for the payment of said debt, and for all other proper relief, and for process of subpœna against said Ben. H. Smith and J. V. Smith, his wife; C. J. Gallagher and E. J. Gallagher, his wife; C. Bowles and Jennie W. Bowles, his wife; John Strong and Eva Strong, his wife; Richard H. Todd, Derringer Todd, and Willie Todd.

U. M. ROSE, *For Plaintiff.*

EXHIBIT A.

STATE OF ARKANSAS, *County of Chicot:*

9 Be it remembered that at the regular October term, 1868, of the circuit court of Chicot county, Arkansas, and on the chancery side thereof, that the following proceedings, among others, were had, viz:

THE CREDITORS OF THE ESTATE OF JUNIUS W. CRAIG, Deceased,

v.

EMMA J. WRIGHT, as Executrix of the last Will and Testament of Junius W. Craig, Deceased, *et al.*

This day comes Charles W. Fry, Esquire, who has been appointed receiver of the estate of Junius W. Craig, deceased, in the place and stead of Johnson Chapman, Esquire, who was such receiver, and had departed this life; and the said Charles W. Fry presents to the court here the report made out by the said Johnson Chapman of his actions as receiver under the decree of this court, including the sales made by him of the lands of the said estate, accompanying which is a deed signed by said Johnson Chapman to William
10 H. Todd for lands purchased by him, and a deed of quit-claim to Charles H. Carlton as trustee; which report the said receiver asks the court here to receive and adopt.

It is therefore ordered by the court that the said report be received and placed on file with the said motion and prayer of the said receiver.

By which report it appeared that the said Johnson Chapman, as receiver, after notice given by advertisements in conformity to the decree in this cause, did sell at public auction to the last and highest bidder, for cash in hand, at the front door of the court-house in Lake Village, all the lands lying in Chicot county on the 16th day of March, A. D. 1868, between the hours for judicial sales; all the lands

of said estate lying in Desha county, at the front door of the
11 court-house on the 17th day of the same March, and between the said hours; all the lands of said estate lying in Phillips county, at the front door of the court-house of that county on the 21st day of the same month, and between the same hours; all the lands of the said estate lying in Drew county, at the front door of the court-house of that county on the 23d day of the same month, March, and between the same hours; all the lands of the said estate lying in Crittenden county, at the front door of the court-house in that county on the 31st day of the same month, and between the same hours; and all the lands of the said estate lying in the county of Monroe were sold at the front door of the court-house, in that county, on the 26th day of the same month, and between the same hours.

And the said late receiver also reports that William H. Todd purchased the plantation known as Yellow Bayou for the sum of
12 thirty thousand dollars, the plantation known as Bellevue for thirty-five thousand dollars, and the unimproved lands in Chicot county at two dollars per acre, except one tract which he purchased for five cents per acre; that the said William H. Todd purchased all the lands of the estate in Phillips county for $3,284.05, all the lands situate in Monroe county for $8,524.94, and all the lands situate in Dusha county for $372.93. That the lands in Drew county were purchased by William F. Slemmons and William T. Wells for one hundred dollars, and the lands in Crittenden county by Charles H. Carlton, as trustee, for one cent per acre, these lands having been sold for taxes, and the time limited for redemption having elapsed.

And the said late receiver further reports that Lucy D. Woolfolk and Joseph S. Woolfolk are entitled to receive out of the
13 purchase-money of the Bellevue plantation, and of the unimproved lands in Chicot county, the sum of nine thousand eight hundred and thirty-one dollars.

Upon consideration of which report, and no objection or ground of exception being taken by any party, and none appearing to the court as to the said sales, it is ordered, adjudged, and decreed that they be confirmed.

And inasmuch as the decree in this case directed that the sales of said lands to be made under it should be so made as to disprove of certain lands to satisfy the particular liens that existed on them, and inasmuch as the said lands composing the Yellow Bayou plantation, as the same are specified in Schedule "C," appended to the said report, were mortgaged to William H. Todd by Junius W. Craig and Leland P. Craig on the first day of January, 1856, by deed duly acknowledged and recorded, to secure the payment of the
14 sum of forty-eight thousand dollars, evidenced by four several promissory notes, each for twelve thousand dollars, due at one, two, three, and four years from their date, and each bearing interest at the rate of ten per cent. per annum from their date, of which sum so secured there was due to the said William H. Todd, on the said 16th day of March, A. D. 1868, for principal and inter-

est the sum of fifty-eight thousand two hundred and twenty one dollars, as is shown by Schedule B of the said report.

And inasmuch as Lucy D. Woolfolk, wife of Joseph S. Woolfolk, who was Lucy D. Craig, wife and widow of Leland P. Craig, holds a lien effectual as and by way of mortgage and reserve by her deed, dated December 5th, 1856, to Junius W. Craig, upon one-fourth of the lands composing the said Bellevue plantation, as these are shown by said Schedule C, and also upon certain unimproved
15 lands of said estate, in said county of Chicot, as shown by the same schedule, which lien was reserved to secure the payment of forty-one thousand and six hundred and sixty-six dollars, due by drafts and notes in the year 1857 to 1861, on which was due for principal and interest, as shown by said Schedule B of said report on the 1st day of June, 1868, the sum of sixty-two thousand seven hundred and sixty-five dollars and seven cents.

And inasmuch as the said mortgage of the said William H. Todd, and the said deed of said Lucy D. Craig reserving such lien were before the court here in this case, and all the rights of the said parties under each respectively were demanded, considered, and undisputed, and the sales of said mortgaged lands were ordered to be made, and were made under the said mortgage and lien as upon foreclosure, and were not sales of the equity of redemption
16 alone, but of that and the mortgage interest, that is to say, of the whole fee relieved of the lien.

And as the said sum of thirty thousand dollars, so as aforesaid bid by the said William H. Todd for the said lands composing the Yellow Bayou plantation, is but so much to be credited upon his claim against the said estate, leaving the residue still unpaid to him to use the sum of twenty-eight thousand two hundred and twenty-one dollars due the 6th of March, A. D. 1868, and as one-fourth of the said sum of thirty-five thousand dollars bid by said W. H. Todd for the said lands composing the Bellevue plantation, and of four thousand three hundred and twenty-five dollars bid by him for the unimproved lands aforesaid, sold under said lien of said Lucy D. Woolfolk as well as under said decree, belongs absolutely and is to be paid to the said Lucy D. Woolfolk and Joseph S.
17 Woolfolk, who do now here by their solicitors consent and agree to accept therefor the notes of the said William H. Todd, payable at one and two years from their date, and do consent that title may be made to him in fee-simple absolute under his said purchase to the one undivided fourth of all of said lands on which the said Lucy D. held her said lien.

And inasmuch as the said William H. Todd, as assignee of A. D. Kelly & Co., holds and is the owner of the claim and allowance against said estate, amounting, as shown by said Schedule C on the 6th of March, 1868, to $51,323.38, and the remaining debts of said estate are, as shown by said schedule, a claim of R. A. Goodloe, amounting on the first of June, 1868, to $320.50; one of C. W. Sanders, then amounting to $235.60; one of the executrix of Hosea George, amounting on the 1st of August, 1867, to $2,362.39;
18 one of Leland W. Peak, amounting on the 1st of June, 1868, to $4,358.56; one of the same party, then amounting to

$53,558.86; one in favor of George Hancock, then amounting to $5,138.99; one in favor of Horace F. Walworth, in the fifth class, then amounting to $30,638.63.

And inasmuch as there has also been allowed by the probate court of Chicot county as expenses of administration to Joshua M. Craig, administrator, $5,389.55; to Street & Craig, $63.00 and $368.88; to W. P. Halliday, executor, $8,983; to Emma J. Wright, executrix, $10,917.12, and to Robinson Lewis & Cracraft, $1,000.00; which allowances in favor of the said Emma J. Wright and William P. Halliday are pending in the circuit court here on appeal of the creditors of said estate.

And inasmuch as the said expenses of administration, as finally allowed and adjudged, must be paid out of the purchase-
19 money bid for the lands of said estate not mortgaged, if not paid out of the choses in action; and as the purchase-money of the three mortgaged fourths of said Bellevue lands and of the other lands, whereof one-fourth was charged with said lien of said Lucy D. Woolfolk, and the purchase-money of all the unincumbered lands bought by the said William H. Todd, after expenses of administration are ascertained and paid, will be distributed among the creditors in due course and order of administration, according as their claims are claimed, and in proportion to the unpaid residues of the credits and claims in the respective class; and as the said William H. Todd has paid said Johnson Chapman the sum of three hundred and fifty-one dollars—

It is therefore ordered, adjudged, and decreed that the receiver in this case, Charles W. Fry, Esquire, do, as commissioner, convey to the said William H. Todd, by deed, reciting his mortgage and the decree in this cause, and the sale under the same, and the
20 substance of this order, to convey all the lands so mortgaged to him, for the consideration of thirty thousand dollars, to be credited on his said mortgages and against the allowance in his favor in the said probate court as of the 6th of March, A. D. 1868.

And that upon the execution by the said William H. Todd of a bond, in the penalty of thirty-five thousand dollars, to the said Charles W. Fry, as receiver, for the use and benefit of all parties interested, conditioned that he will, upon the order of the court here, promptly pay into court such sum as may by this court or any other competent tribunal be adjudged to be payable by him, out of the said purchase-money of the mortgaged lands and tenements, to pay any person or persons for costs and expenses of the administration of said estate, or as dividend or dividends upon any other claims and allowances against the said estate; and upon the due ac-
21 knowledgment by him of the said bond, and its filing in and approved by the court here, the said receiver do by like deed convey to him, for the considerations bid for the same, all the other lands purchased by him, lying in said county of Chicot, reciting the said lien of the said Lucy D. Woolfolk, with the other necessary recitals, as hereinbefore directed, and reciting, also, the payment to the said Lucy D. Woolfolk and Joseph S. Woolfolk of said sum of nine thousand eight hundred and thirty-one dollars, as the price of

the entire title in fee simple absolute of and to one undivided fourth of said Bellevue and other lands sold under the said lien, which sum shall be credited against the allowance in favor of those parties in the probate court as of the 16th of March, A. D. 1868.

Which bond, being filed here, shall operate by virtue of this decree as a lien upon all the lands purchased by the said William H. Todd lying in the counties of Chicot, Phillips, and Monroe, except those so far as aforesaid mortgaged to himself, and the interest on which the said Lucy Woolfolk held her lien; and upon failure of the said William H. Todd to punctually perform and fulfil the conditions of his said bond, and to pay any moneys ordered by the court here to be paid by him, the lien herein provided shall be immediately enforced by order of the court, and performance may likewise be compelled by attachment.

And it is further ordered, adjudged, and decreed that the said receiver, Charles W. Fry, do also convey to the said William H. Todd, upon the execution, acknowledgment, and filing by him of the bond aforesaid, and its approval by the court here, by separate deeds, the said lands in the counties of Phillips and Monroe so purchased by him as aforesaid, and that the said William H. Todd, having paid the said sum of three hundred and fifty-one dollars, and desiring that the same may be applied to the payment of the price bid by him for the said lands in the county of Desha, the price so bid being three hundred and seventy-two dollars and ninety-three cents, the said receiver do convey the said lands in the county of Desha to him on payment of the residue of the price, that is to say, the sum of twenty-one 93-100 dollars.

And that he convey to the purchasers of said lands in the county of Drew the lands purchased by them, if the same have not been conveyed by the former receiver, his report showing that the purchase-money of the same was paid to him, and that he convey unto such person *or* the said Charles H. Carlton shall appoint the lands sold in the county of Crittenden, upon payment of the amount bid and offered therefor as shown by the said report.

And Charles H. Carlton, Esquire, administrator of the estate of said Johnson Chapman, deceased, requesting the court to fix and allow the compensation to be paid to the said Johnson Chapman, deceased, as receiver, for his services as such, including the making of said sales, and it appearing that he acted as such from the time of his appointment at the December term of the court here, 1867, until his death on the — day of ——, 1868, the court thinks that the sum of $1,150 dollars is a reasonable compensation for his said services, and doth fix the same at that sum, and doth order, adjudge, that so much less by one hundred and thirty dollars, the balance of moneys reported by him as in his hands, be paid to the said administrator by the said William H. Todd out of the purchase-money subject to distribution as aforesaid.

And the said receiver, Charles W. Fry, is directed to proceed to collect as speedily as possible the available assets of the said estates, and to enforce the mortgages and liens on lands which have been in the hands of the administrators and executrix,

and of the said Johnson Chapman as receiver, and that he make report of his action to the next term of this court here.

And it is further ordered that the costs of the making and execution of the said deeds and of stamps thereon be paid with the costs of the suit by the said William H. Todd out of the said purchase-money as to be distributed.

And thereupon comes the said William H. Todd, and here acknowledges and files the bond required by this order, which is upon examination thereof approved by the court.

STATE OF ARKANSAS, *Chicot County:*

26 I, H. W. Graves, clerk of the circuit court in and for the county and State aforesaid, do hereby certify that the preceeding (19) nineteen pages of writing contain a true, full, and complete transcript of decree rendered in the cause therein mentioned at the Oct. term, 1868, of the said court, as the same remains of record in Chancery Record "D" of said chancery court.

Witness my hand and the seal of said court hereto affixed, this 5th day of September, A. D. 1876.

[SEAL.] H. W. GRAVES, *Clerk.*

27 EXHIBIT "B."

This indenture, made and entered into at Lake Village, Arkansas, this the 27th day of October, A. D. 1868, by and between William H. Todd, of the city of Philadelphia and State of Pennsylvania, party of the first part, and Joseph S. Woolfolk, of the city of Lexington and State of Kentucky, party of the second part.

Whereas the said William H. Todd has this day became indebted to the said Joseph S. Woolfolk in the sum of eight thousand four hundred and eighty-six dollars and forty cents, the same being for the one-fourth part of the purchase-money of certain lands in Chicot, known as the "Bellevue Plantation," recently purchased by the said William H. Todd at a receiver's sale of the estate of Junius W. Craig, deceased, and upon the one *the one*-fourth interest in which said "Bellevue Plantation" the said Joseph S. Woolfolk and

28 Lucy D. Woolfolk, his wife, in her right held and owned a mortgage lien for the security of their debt against the estate of Junius W. Craig, deceased, and which mortgage lien was, by the order and judgment of the court decreeing the sale of said estate, first to be paid out of the purchase-money of said plantation; and whereas the said sale and purchase was made for cash, and the said one-fourth part of said purchase-money ought to be paid to the said Woolfolk presently and in cash, but the said Joseph S. Woolfolk, for himself and his said wife, have consented and agreed to give the said William H. Todd time in which to pay the same, and the said William H. Todd, in consideration of such extension and indulgence, has executed and delivered to the said Joseph S. Woolfolk his two promissory notes, each bearing date the 27th day of October, A. D. 1868, each for the sum of four thousand two hundred and

forty-three 20-100 dollars, and each to bear interest at the rate
29 of ten per cent. per annum from date until paid, one payable twelve months after date, and the other two years after date, to the order of the said Joseph S. Woolfolk; and, in order to secure and assure the full and final payment of the said two promissory notes and all interest that may accumulate on the same, has consented to execute this mortgage:

Now, therefore, this indenture witnesseth, that the said William H. Todd, for and in consideration as well of the premises as of the further valuable consideration of the sum of ten dollars to him in hand paid by the said Joseph S. Woolfolk, the receipt whereof is hereby acknowledged, hath this day granted, bargained, and sold, and does hereby grant, bargain, sell, alien, convey, and confirm, unto the said Joseph S. Woolfolk, and to his heirs, executors, administrators, or assigns, all the following-described tracts and parcels of land lying and being situate in the county of Chicot and
30 State of Arkansas, and composing what is commonly known as the Bellevue plantation, and designated and described on the plans of the public surveys as follows, to wit:

The south half ($\frac{1}{2}$) of the south half ($\frac{1}{2}$) of section four (4), containing 160 acres.

The south diagonal half of the north half ($\frac{1}{2}$) of the south half ($\frac{1}{2}$) of section four (4), containing 80 acres.

All of fractional section five (5), containing 648.71 acres.

The east fractional half and southwest quarter ($\frac{1}{4}$) and the south half of the northwest quarter ($\frac{1}{4}$) of section six (6), together containing 565.60 acres.

All of fractional section seven (7), containing 640.71 acres.

The west half of section eight (8), containing 320 acres.

The west half of the southeast quarter of section (8) eight, containing 80 acres; and the northeast quarter of section eighteen (18), containing 160 acres, all lying and being in township fifteen
31 (15) south of the base line in range one west of the fifth principal meridian.

To have and to hold to the said Joseph S. Woolfolk and to his heirs, executors, administrators, and assigns the said above-described several tracts and parcels of land, together with all and singular the privileges and appurtenances thereunto belonging forever, he, the said William H. Todd, hereby covenanting to and with the said Joseph S. Woolfolk and his heirs and assigns that said lands are free from incumbrances done or suffered by him, and that he has good right to sell and convey the same.

This deed is made upon the following express and well-understood condition, however, that if the said William H. Todd shall well and truly pay or cause to be paid the two said promissory notes, as hereinbefore mentioned and described, together with all interest that may accumulate — the same according to their tenor and effect at the time when the said notes shall respectively fall
32 due, then and in that event this deed and all of the estate herein and hereby sold and conveyed shall cease and determine, and this deed and all of the estate herein and hereby sold and

conveyed shall cease and determine, and this deed become null and void.

In testimony whereof, the said William H. Todd has hereunto set *my* hand and seal, this 27th day of October, A. D. 1868.

WM. H. TODD. [SEAL.]

STATE OF ARKANSAS, *County of Chicot:*

Be it remembered, that on this 28th day of October, A. D. 1868, before me, James McMurray, clerk of the circuit court and *ex-officio* recorder in and for the county and State aforesaid, personally appeared William H. Todd, whose genuine signature appears to the annexed and foregoing deed of conveyance, to me personally well known, and produced to me said deed and acknowledged that
33 he had executed the same for the uses, purposes, and considerations therein metioned and set forth, and desired the same certified, which is accordingly done.

In testimony whereof, I have hereunto set my hand as such clerk and affixed the seal of said court, at office in Lake Village, this the 28th day of October, A. D. 1868.

[SEAL.] JAMES McMURRAY, *Clerk.*

Filed for record October 29th, 1868, and recorded November 18th, 1868, $8.50, U. S. rev. stamps affixed.

Attest: JAS. McMURRAY, *Clerk, &c.*

34 EXHIBIT "C."

Owen Circuit Court.

H. G. CRAIG *v.* W. H. TODD and B. H. GARNETH.

The plaintiff, H. G. Craig, states that the defendant, Wm. H. Todd, by his promissory note, dated Lake Village, Ark., October 28th, 1868, agreed to pay to Joseph S. Woolfolk the sum of four thousand two hundred and forty-three dollars and 20 cents two years after date, bearing ten per cent. interest from date until paid.

Plaintiff says that the said Joseph S. Woolfolk, by his written endorsement on the back of said note, assigned the same to the plaintiff, H. G. Craig, who is now the owner and holder of the same. Said note is filed herewith as part hereof, and no part of the same has been paid. Plaintiff further states that the debt for
35 which said note was given was created in the State of Arkansas, and the note sued on was executed in said State of Arkansas, and by the laws of said State at the date of said note, and since to the present time, all contract in writing bear ten per [cent.], where it is so agreed between the parties, so stated in the writing, and signed by the party to be charged.

The plaintiff further states that the defendant, W. H. Todd, is a non-resident of the State of Kentucky, and that the plaintiff's claim is just, and is the nature of a promissory note, the consideration being for money and other things furnished defendant Todd, and the plaintiff believes he ought to recover the sum of $4,243, with ten

per cent. [interest] thereon from October 27th, 1868, until paid, and his costs herein, say $30. And plaintiff further states that the defendant, B. H. Garneth, is indebted to his co-defendant, W. H. Todd,
for rent, in a sum of money, amount not known to plaintiff,
36 but plaintiff supposes to be four or five hundred dollars;
and plaintiff says that the defendant, W. H. Todd, has not property in this Commonwealth subject to execution sufficient to pay the plaintiff's demand, and plaintiff- demand will be endangered by the delay arising before judgment or a return of no property found.

Wherefore the plaintiff prays for an attachment against the property of the defendant, for a process of garnishment against the defendant, B. H. Garneth, enjoining and restraining him from paying over to W. H. Todd the sum of five hundred dollars till the further order of court; and upon a hearing the plaintiff prays judgment for his said debt, for interest and costs, for a sale of the attached property to pay the plaintiff's debt, for costs, and for all proper relief.

H. P. MONTGOMERY,
Att'y for Pl'ff.

37 The affiant, H. P. Montgomery, says he is the attorney of the plaintiff, H. G. Craig, who is absent from Owen county, and he believes the statements of the foregoing petition to be true.

H. P. MONTGOMERY.

Sworn to before me, by H. P. Montgomery, this Oct. 16, 1875.
JO. C. REVILL, *Clerk.*

Warning Order.

Owen Circuit Court.

H. G. CRAIG *v.* W. H. TODD, &c.

The non-resident defendant, W. H. Todd, is warned to appear in this court on the first day of its next May term and answer the petition of plaintiff, and Thos. R. Gordon, Esq., is appointed attorney to correspond with and defend for said non-resident defendant.

Given under my ——, this 16 Oct., 1875.

JO. C. REVILL, *Clerk.*

The following is a copy of note, filed with the foregoing petition, viz:

38 $4,243.20. LAKE VILLAGE, ARK., *Oct.* 27, 1868.

Two years after date, I promise to pay Joseph S. Woolfolk, or order, the sum of four thousand two hundred and forty-three dollars and twenty cents, for value received, with interest thereon at the rate of ten per cent. per annum after date until paid.

WM. H. TODD.

This note secured by mortgage, which is duly stamped.

Said note endorsed as follows, to wit:
"Pay to H. G. Craig." Jos. S. Woolfolk.

The following is a copy of the answer filed in the foregoing petition, to wit:

The defendant, Wm. H. Todd, for answer, counter-claim, set-off, and cross-petition herein, says:

That he admits the execution of the note sued on, but he denies that the plaintiff, H. G. Craig, is the owner of said note. He says that the plaintiff is the brother-in-law of Joseph S. Woolfolk,
39 the payee in said note, and that it was assigned to plaintiff simply for collection; that the note is so endorsed, and that the said Joseph S. Woolfolk is the real owner of said note, and is a party in interest in this suit, and that it was instituted and is being prosecuted for his benefit, and defendant insists that said Woolfolk is a necessary party plaintiff herein.

He further says that it is true that the note sued on was executed in the State of Arkansas, and that the debt for which it was given was created there.

It — also true that he is a non-resident of this State, but he denies that it is a just claim, or that the consideration for which it was executed was money or other things furnished defendant.

He denies that he has not property in this Commonwealth subject to execution sufficient to pay plaintiff's demand, or that plaintiff's demand will be endangered by the delay arising before judg-
40 ment or return of no property found. On the contrary, he says he has property in this Commonwealth subject to execution amply sufficient to pay plaintiff's demand.

Defendant further states and insists that the note sued on was secured by mortgage upon a large quantity of lands situated in Chicot county, in the said State of Arkansas, consisting of several thousand acres of valuable land, fact well known to plaintiff at the time and long prior to the bringing of this suit. That defendant is a citizen and resident of the city of Philadelphia, in the State of Pennsylvania, and is the owner of extensive properties there. That in either of said States of Arkansas or Pennsylvania plaintiff could have sued upon and litigated the matters involved in this suit, but plaintiff, at the instance of said Woolfolk and of his volition, in order to har-ass, annoy, and inconvenience defendant, and to
41 subject him to as many disadvantages as possible, and to make the litigation as expensive and costly to him as he well could, has sought the former and brought him here, when the more appropriate form to have had these matters litigated would have been and is in either of the States named.

He also says that the plaintiff, H. G. Craig, as well as the said Joseph S. Woolfolk, is a citizen and resident of the State of Kentucky.

Defendant, further answering, says that the consideration for which the note sued on was executed is as follows, to wit:

He says that the said Joseph S. Woolfolk and Lucy D. Woolfolk, his wife, held and owned, or claimed and pretended to hold and

own, a mortgage lien upon what was known as the Bellevue plantation, belonging to the estate of Junius W. Craig, deceased, in the county of Chicot, in the State of Arkansas, amounting to the sum of eight thousand four hundred and eighty-six dollars and forty
42 cents, and which the said Woolfolk and his said wife claimed and represented themselves to hold and to be entitled to as against the estate of the said Junius W. Craig, deceased, and which they claimed and held was a lien upon the said Bellevue plantation, or a portion thereof, and which they insisted was a good and valid claim against said estate, and entitled to priority over the other debts and demands against said estate by reason — their said mortgage, especially so far as the said Bellevue plantation *were* concerned, in the distribution of the assets of the estate of said Craig, deceased.

That at a decretal sale of the estate of said Junius W. Craig, made in the said county of Chicot, and State of Arkansas, on the 16th day of March, 1868, prior to the execution of the note sued on, defendant became the purchaser of the said Bellevue plantation at the sum of $35,000.00, the said Joseph S. Woolfolk being
43 present at the time of said sale and purchase by defendant, and consenting and agreeing thereto, and afterwards, on the 27th day of October, 1868, in order to satisfy the said claim of Woolfolk and wife, and by way of purchase thereof, he, relying upon the representations of said Woolfolk, and believing them to be made in good faith, that said claim was a good and valid claim, and entitled to priority in the distribution of the assets of said estate, and that the same would be paid in full, executed his notes to said Joseph S. Woolfolk for the said sum of eight thousand four hundred and eighty-six dollars and forty cents, to wit, one note for $4,243.20, dated October 27, 1868, due twelve months thereafter, and the other of the same for $4,243.20, due two years thereafter, each bearing interest from date at the rate of ten per cent. per annum. The first named of said notes the defendant has heretofore paid off and discharged, and the other is the note sued on. He says said
44 claim of Woolfolk and wife, and the purchase thereof by defendant, constituted the only consideration for the execution of the note sued on.

He says that the said sale of the said plantation of Junius W. Craig, deceased, at which defendant became the purchaser as above stated, was ordered and decreed in the suit of Wm. A. Frazier and others, creditors of the estate of said Junius W. Craig, deceased, against Emma J. Wright and others, in the circuit court of the county of Chicot, in the State of Arkansas, in which this defendant and the said Joseph S. Woolfolk and Lucy D. Woolfolk, his wife, were petitioners, asking for the sale of the lands of said estate to pay the debts, and for a marshalling of the assets for an equitable and proper distribution thereof among the creditors of said Craig, deceased.

During the pendency of said suit and after a sale of said Bellevue plantation, and after the said claim of Woolfolk and wife had
45 been presented, reported, and allowed in said suit as a fourth

class claim having priority in the distribution of said estate, so far as the proceeds of the sale of said Bellevue plantation *ever* concerned, over and above all other claims and demands against said estate, except the costs and expenses of said litigation and of the administration of said estate, and a claim in favor of A. D. Kelly & Co. for $——, and before a final settlement and distribution of the assets of said estate had been reached and the rights and equities of the various creditors had been fully settled and determined, defendant bought the claims of the said Joseph S. and Lucy D. Woolfolk, as above stated, and for the purchase price of their said claim against said estate which had been allowed in said suit as a 4th class claim, and as such entitled to priority in the distribution of the assets of said estate, except as to the said claim of A. D. Kelley & Co.
46 for $57,312.26, which was allowed as a 3rd class claim, and the costs of suit and expenses of administration, and executed this note to said J. S. Woolfolk, as well as another note for a like amount which has heretofore been paid by him. Said Kelley & Co's claim, as well as the costs of suit and expenses of administration were, entitled to priority over all other claims in the distribution of the assets of said estate; and in the final settlement of said estate in the county of Chicot, in the State of Arkansas, defendant was compelled to pay and did pay the said costs, charges and expenses of administration and settlement of said estate and the costs and expenses of said litigation, and the aforesaid claim of A. D. Kelley & Co., amounting in the aggregate to the sum of $90,319.06, all of which was allowed and ordered to be paid and constituted a lien upon the said Bellevue plantation and the $35,000, which defendant was to pay therefor prior and superior to the lien and claim
47 of the said Joseph S. and Lucy D. Woolfolk, purchased by defendant, and which constituted the consideration and only consideration for the note sued on; and defendant now says and insists and represents that there has been a total failure of consideration for which the note sued on as well as the other note which defendant has heretofore paid as before stated was executed, and he pleads and relies upon these facts as a defense to this suit.

The defendant, for further answer, counter-claim, and cross-petition herein, states: That, on the —— day of ———, 1866, he and the said Joseph S. and Lucy D. Woolfolk, in connection with W. W. Frazier and sundry other persons, creditors of the estate of Junius W. Craig, deceased, filed their bill in chancery in the circuit court of Chicot county, and State of Arkansas, against Emma J. Wright and the heirs and devisees of said deceased, complaining and stating that the said Junius W. Craig, deceased, who was a citizen of
48 the State of Arkansas, and as a resident of the county of Chicot, in said State, and who departed this life at Louisville, in the State of Kentucky, on the 17th day of September, 1858, while on a temporary visit in said city, leaving as his heirs-at-law divers persons, whom it is unnecessary to state, at the time of his death was the owner of a large estate, consisting of slaves and personalty and lands in the State of Arkansas, the principal in value being two plantations in Chicot county, known as the "Bellevue" and "Yellow

Bayou" plantations, and also valuable lands in the counties of Phillips, Desha, Monroe, and Crittenden, in said State, and valuable real estate in the city of Louisville, in the State of Kentucky, and in the city of Memphis, in the State of Tennessee.

In said bill in chancery it is stated and recited that, on the 1st day of October, 1858, one Joshua M. Craig obtained from the clerk
49 of the probate court of the county of Chicot and State of Arkansas, in vacation, letters of administration of the estate of the said Junius W. Craig, deceased, which were confirmed of the court on the second day of December, 1858; and that, in the meanwhile, the said Emma J. Wright and one Wm. P. Halliday, nominated and appointed as executrix and executor in a paper purporting to be the last will and testament of said Junius W. Craig, deceased, executed on the 17th of July, 1858, offered the said paper and addendum for probate in the said probate court of Chicot county, which, without opposition, but under the protest of the heirs-at-law, was admitted to probate in common form as the last will and testament of the said Junius W. Craig, deceased, on the 24th day of January, 1859, the right of the heirs-at-law to contest the same in the circuit court being reserved; and on the 25th January, 1859,
50 one Sanford C. Faulkner and wife instituted suit in the circuit court of said county to contest said will.

And that on the same day the said Halliday applied to the probate court aforesaid for letters testamentary, which were refused; and, on the 10th day of February, 1859, letters of administration *pendente lite* of said estate were, by said court, granted to the said Joshua M. Craig and one John R. Llewellyn, and the several controver-*ys* and contests growing out of the probate of said will, and granting of said letters testamentary, progressed among the heirs and devisees of said Craig and his creditors, until about the — day of ——, 1860, when a compromise was effected and embodied in a decree of the said circuit court, by which the debts were to be paid and the remainder of the property be distributed in the manner stated therein, and not pertinent to this controversy. Among other things, it was agreed that the said Halliday should resign
51 his executorship, and letters of administration, with the will annexed, should be granted to the said Joshua M. Craig.

Meanwhile, and before the October term, 1860, of the said circuit court of Chicot county, claims had been presented, allowed, and classed in the probate court aforesaid, to the amount of $236,289.34, on which there had been paid, in course of administration, $83,195.85. Among the claims so presented and allowed was a claim in favor of A. D. Kelly & Co., $831.52, and one for $45,607.76, on which $19,266.04 had been paid four in favor of the said Lucy D. Woolfolk, amountmg, in the aggregate, to the sum of $58,725.64, on which $25,000 had been paid; and one for $3,426, on which nothing had been paid, and two claims in favor of defendant, amounting together to the sum of $57,181.60, on which $5,000 had been paid, on the 20th day of October, 1860, to secure payment of which he held
52 a mortgage upon the said "Yellow Bayou" plantation. Said bill in chancery was filed to marshal the assets of said estate,

and to enforce payment of the debts according to the rights and priorities of the several creditors, and for that purpose to have a sale of the lands and to bring about a final and equitable settlement of said estate. The said Joseph S. Woolfolk and his wife, Lucy D. Woolfolk, and this defendant, were all complainants in said bill in chancery, a copy of which, duly certified, is filed and made a part of this answer and cross-petition.

The said Emma J. Wright and others of her co-defendants filed their separate answers to said bill at the April term, 1866, of said court, and at the October term, 1866, Lewis E. Craig, one of the defendants in said bill, filed his separate answer; and at the same term of said court this defendant filed his answer to the cross-bill of the said Emma J. Wright and others; and at the Decem-

53 ber term, 1867, the said A. D. Kelley & Co. filed their separate answer to the cross-bill of the said Emma J. Wright and others. He files copies of said several answers of the said Emma J. Wright, & Co., Lewis E. Craig, A. D. Kelley & Co., and this defendant, and makes them a part of his answer and counter-claim herein.

At the said December term of said Chicot circuit court, 1867, upon the motion of complainants in said cause, Johnson Chapman, Esq., was appointed by said court receiver to collect and take charge of all the assets of said estate, both of money and all kinds of property, with directions to make out a full and complete statement of all the debts and liabilities of said estate, and all the property and assets belonging to the same, with a full statement also of the liens, their dates, amounts, property liable, and the nature and character of such liens, and the property to which they attach.

And there to make sale of the lands belonging to said

54 estate to the highest bidder at public auction in the manner and upon the terms set out in said decree, a duly certified copy of which will be filed herein in due time, and made a part of this answer and counter-claim.

At the October term, 1868, of said court, Charles W. Fry, Esq. was appointed receiver instead of said Chapman, who, in the mean time, had departed this life. And at the same term of said court, the report of said Chapman of his actings as such receiver, and of the sales made by him, was presented and filed, and no exceptions being taken thereto it was by said court confirmed. By said report it appears, and it is true, that upon the lands so sold by said receiver, the sales of all which aggregated the sum of $———, the said Joseph S. and Lucy D. Woolfolk had a lien upon the Beelevue plantation, and upon the unimproved lands in Chicot county

55 for the sum of $9,831, and that this defendant had a lien upon the lands, comprising the "Yellow Bayou" plantation, to secure the payment of $58,000.00 due from the estate of said Junius W. Craig, deceased. And that the $30,000.00 bid by him for said plantation was to be credited upon his said debt, leaving a balance of $28,000, and that the amount of $35,000.00 bid by him for the Bellevue plantation and the unimproved lands in Chicot county, the said Joseph S. and Lucy D. Woolfolk, for their said debts, which was a lien upon said lands, agreed to accept the notes of this de-

fendant, payable in one and two years from that date, and consented that a deed might be made to him therefor, which was accordingly done by said receiver, a certified copy of which is filed and made part hereof.

Said receiver in his report states the claim of this defendant at the sum of $57,307.60, after deducting all credits to which it was entitled.

56 The claim of A. D. Kelley & Co., which had been assigned by them to W. W. Frazier, and by him to this defendant, and which was subsequently held and determined by said court to be a 3rd-class claim, having priority over all other claims and demands against said estate on the distribution thereof, except costs of suit and expenses of administration, was audited and stated at the sum of $51,323.58.

The claims of the said Joseph S. Woolfolk and Lucy D. Woolfolk were audited as 4th class claims, and were stated at the sum of $62,765.07, after deducting credits.

The total amount of the sales of the lands of said estate are set down at the sum of $83,306.80, of which this defendant bought to the amount $83,105.89.

He says that said suit progressed, and additional supplementary proceedings were filed by this defendant, and by the said Emma J. Wright and others, all of which will more fully appear by

57 reference to an inspection of the proceedings in said suit, a copy of all which will be filed herein in due time until the Oct. term, 1871, when it was again referred to the receiver to state and audit and classify the claims against said estate, and the assets thereof, &c., &c., and at the term, 187–, D. H. Reynolds, master commissioner of said court, made and filed his report, and stated the said claims as follows:

Balance due W. H. Todd on his claim, July 1, 1872	$46,548 08
Balance due on claim of A. D. Kelley & Co., July 1, 1872	$57,312 26
Balance due J. S. and Lucy D. Woolfolk, July 1, 1872	$59,010 40

Which said last claim of Woolfolk and wife was reported as a 4th class claim.

The total amount of unpaid claims against said estate was as follows:

Expense of administration	$33,006 80
Fourth class claims	181,735 46
Fifth " "	34,498 51
	$249,240 77

58 The said expenses of administration, amounting to the said sum of $33,006.80 subsequent to the sale of the lands allowed by the court, and defendant was ordered to pay and did pay the full amount thereof, the same having, by the orders and decrees

of said court in said suit, priority over all other claims in the distribution of the assets of said estate.

The claim of A. D. Kelley & Co., reported as a fourth class claim, was subsequently, by the adjudication of said court, determined and adjudged to be a third class claim, and entitled to priority over all other debts against said estate.

The assets of the estate were reported to be $48,711.50 in the hands of this defendant after deducting the various sums paid out by him, and his debts, which were secured by mortgage lien, except the A. D. Kelley & Co. claim then owned by him, and (which then amounted to considerably more than the balance of assets in his hands).

59 This left the said estate largely indebted to him on his said A. D. Kelley & Co. claim, which was a preferred claim and entitled to preference over all the claims of said Woolfolk and wife in the distribution of the assets of said estate, and over the claim purchased by him of them as before stated, for $8,486.40, for one-half of which the note sued on was executed, and hence the entire consideration for which said note was given failed. In addition to the assets of said estate, as above stated, there was the sum of $53,259.81 realized from the sales of the property belonging to said estate, situated in the city of Louisville, Ky.

By some proceedings in the courts of Kentucky, in the city of Louisville, subsequent to the execution of the note sued on, the whole of the assets of said estate arising from the sales of the property here were appropriated and consumed by the said Joseph S. and Lucy D. Woolfolk in the payment of their debt against said estate to the exclusion of all their creditors and

60 especially of this defendant, when, in fact, he (defendant) was entitled to the greater part, if not the whole, of said assets, amounting, as above stated, to the sum of $53,259.81, and which, by the perverse and fraudulent conduct of the said Joseph S. Woolfolk, were withheld from the courts of the State of Arkansas, the proper forum for the distribution of the assets of said estate and for determining the rights and privileges of the several creditors of said estate.

Defendant states and insists that the said Joseph S. and Lucy D. Woolfolk, being parties to the said suit instituted as before stated in the Chicot circuit court, in the State of Arkansas, were bound by the proceedings therein. That said court had the jurisdiction of not only the persons of said Woolfolk and wife, but also of all the assets of said estate for the distribution thereof.

That the said Junius W. Craig, at the time of his death, was a citizen and resident of the county of Chicot and State of Arkan-

61 sas, and the principal part of his estate was located there. And the said Woolfolk and wife never abandoned, or attempted to abandon, said forum until they ascertained that they could gain an undue, unlawful, inequitable, and unjust and fraudulent advantage over this defendant in the distribution of the assets of said estate, and could gain possession of all the valuable property belonging thereto, situate in the city of Louisville, and which they did do, and refused to appear afterwards in said cause in Chicot county,

Arkansas, or to account for in any way the amount realized as above stated from said property in Louisville. And by means of this willful, fraudulent, and unjust conduct of said parties this defendant was prevented from securing the payment of the claim so purchased by him from them for which this note was given, and he ought not now to be required to pay any part of said note.

He further says that the assets of said estate of Junius W.
62 Craig, deceased, in the State of Arkansas, arising from the sale of the lands in [said] State, and for distribution among the creditors, as well as for the payment of costs and charges of administration, amounted on the 25th day of March, 1868, as shown by the report of the master commissioner in the aforesaid suit of Frazier and others against Emma J. Wright, &c., amounted to the sum of $83,105.47. Aside from this there was no other assets with which to pay the costs of suit, expenses of administration, and the debts of said estate, and defendant was compelled to pay said costs and expenses, amounting to the sum of $33,006.80, leaving a balance of assets of only $50,098.67 for the payment of the preferred and general creditors.

The firm of A. D. Kelley & Co. had a claim against said estate, amounting, on the 25th March, 1868, to the sum of $57,312.26. This claim, as above stated, was allowed in said suit and was ordered to be paid as a 3rd class claim, and as such was entitled to
63 priority over all other claims against said estate, except costs of suit and charges of administration, and by reason of its priority the entire remainder of the assets, to wit, $50,098.67, was appropriated to and consumed in the payment of said claim, leaving a balance thereof, amounting [to] $7,213.59, still unpaid, and no assets whatever to be appropriated there to the payment of any part of the creditors who held 4th class or inferior claims.

He says that besides the balance of the said A. D. Kelley & Co. claim as above stated which had been assigned by said Kelley & Co. to Wm. W. Frazier and by him to defendant, and of which he was, and is still, the owner, as will appear from the records and proceedings in said suit, and filed as part hereof, defendant held another claim against said deceased, which was audited and allowed in said suit as a 4th class claim, amounting on the 1st July, 1872, to the sum of $46,548.08.

The said Joseph S. and Lucy D. Woolfolk presented also in
64 said suit a claim against said estate, which was audited, reported, and allowed, amounting to the sum of $59,010.40 on the 1st July, 1876, and which was classified in said report as a 4th class claim, which report of claims was confirmed by the court.

Said report of the master commissioner also shows, and it is true, that the said Junius W. Craig was the owner of considerable estate in the city of Louisville, Ky., valued at the sum of $75,000. He says that after he had purchased from Woolfolk and wife the claim as before stated, for which the note sued on was executed, and after the sales of the land in Arkansas and the amount of assets therefor distribution ascertained, the said J. S. Woolfolk and Lucy D. Woolfolk, by some proceedings in the courts of the city of Louisville, Ky.,

procured a sale of all the lands and real estate belonging to said Junius W. Craig, deceased, in the city of Louisville under a
65 decree of the court there rendered on the 11th day of February, 1871, and on the 10th day of March, 1871, made his report of sale. He says that the amount realized for distribution from the sale of said property was $53,259.81, the whole amount of which the said Woolfolk wrongfully and fraudulently procured to be appropriated and paid upon their said debt of $59,010.40 to the execution of defendant and all other creditors of said Junius W. Craig, deceased. He says that out of said assets in Louisville he was and should have received the sum of $7,213.59, the balance of his said A. D. Kelley & Co. claim remaining unpaid, and that he was entitled to and should have received the sum of $20,304.98, the *pro rata* of his said $46,548.08 claim against said estate, and the sum of $—— heretofore paid said Woolfolk on the said *the said* claim purchased by defendant of him.

Wherefore he prays that the said Joseph S. and Lucy D. Woolfolk may be made parties hereto, and that summons may be
66 issued against them, and he makes his answer herein a cross-petition against plaintiff and said Joseph S. and Lucy D. Woolfolk, and prays judgment over against said Joseph S. and Lucy D. Woolfolk for the aforesaid sums of $27,518.57, with interest thereon from the 10th day of March, 1871, until paid, and for $4,243.20, with interest thereon at the rate of ten per cent. per annum from the — day of ——, 18—, until paid, for his costs expended herein, and for all other proper relief.

STRATHER AND ORR,
Attorneys for Defendant.

The defendant W. H. Todd, says he believes the statements contained in the foregoing answer and cross-petition are true.

WM. H. TODD.

Sworn to before me by W. H. Todd, this 18th day of April, 1876.

J. J. ORR,
Notary Public.

67 The following is a copy of the reply to the foregoing answer and cross-petition, to wit:

Joseph S. Woolfolk says, in reply to the defendant's counter-claim that at the time of the institution of this suit H. G. Graig was the holder and owner of the note sued on, but since that time he has become the owner of said note, and is now the owner thereof.

He says that it is true he, with the defendant Todd and other creditors of Junius W. Craig, deceased, filed a bill in the Chicot county court in the State of Arkansas, on the 16th day of March, 1866.

The object and purposes of this bill, and a bill of revivor filed by same parties on the — day of December, 1867, will be seen from the bills themselves, copies of which are made part of defendant's an-

swer. He says that his wife, Lucy D. Woolfolk, then Lucy D. Craig, widow of the late Leland P. Craig, deceased, sold on the — day of December, 1856, to Junius W. Craig all of her interest in a
68 plantation in Chicot county, Arkansas, known as Bellevieu, and her interest in certain unimproved lands in said county. The consideration which said Junius W. Craig agreed to pay her was $50,000, divided in annual payments.

Leland P. Craig and Junius W. Craig were partners in said lands, and by his will Leland devised to said Lucy D. one undivided half of said land in Chicot county.

These were the lands which said Lucy D. sold and conveyed to Junius W. Craig as aforesaid, for the sum of $50,000.

He says that a special lien was retained on the interest conveyed to secure the purchase-money. A very large part of this $50,000 remained unpaid at the death of said Junius W. Craig, and still remained unpaid at the time of the filing of said bills in the Chicot circuit court. He says that he and said Lucy D. had intermarried at the time of the filing of said bill, and that the amount of their debts, and the fact the same was secured by a special lien
69 upon the undivided fourth of Bellevieu plantation, and said unimproved lands in Chicot county, was alleged in said bill. He says that the defendant, Wm. H. Todd, as a creditor of said Junius W. Craig, and as assignee of the alleged claim of A. D. Kelley & Co., was a party to said bill, and the proceedings therein up to the order of sale, the sale, and the confirmation thereof.

He says that the Chicot circuit court, by a decree entered December 16, 1867, order- the special receiver, Johnson Chapman, to ascertain and report the property belonging to the estate of the decedent Junius W. Craig, and the debts due by the estate, and any lien which might exist against and cover specific property belonging to decedent.

The court ordered a sale of all of decedent's real estate in the State of Arkansas to be made by said receiver, which was done by him in the month of March, 1868. The total sales of all the
70 said real estate amounted to $83,306.81. The defendant became the purchaser of all the unimproved lands in Chicot county, and and both of the plantations known as "Yellow Bayou" and "Bellevieu." The latter was purchased by him at the sum of $35,000, and the unimproved lands in Chicot county, upon which this plaintiff and his wife had a lien, for the sum of more than $50,000. The total purchases of land made by the defendant at said sales amounted in the aggregate to $83,105.49, and out of this sum plaintiff and his wife was entitled, by reason of their special lien on undivided fourth of the Bellevieu plantation and the unimproved lands, to the sum of $9,831. This was by the terms of sale due in cash to plaintiff; but he subsequently consented to take defendant's two notes for the quarter part of said sum. The defendant, in satisfaction of so much of the purchase-money due on his said purchase of Bellevieu plantation and the unimproved land, executed to plaintiff his said notes, payable in one and two years, each for $4,243. Both

71 of said notes were dated October 28, 1868, and the one now sued on was one of the said notes.

He says that said receiver reported to the Chicot circuit court that he and his wife, Lucy D., had a specific lien for the one undivided fourth of the plantation known as Bellevieu plantation, and one undivided fourth of certain unimproved lands in said county, to secure a debt against decedent for over fifty thousand dollars, and that they had a specific lien on and were entitled to one-fourth of the purchase-money arising from said sales, which fourth amounted to $9,831.

The sale to defendant of said property and the said report of the receiver was confirmed by order of the Chicot circuit court on the 28th October, 1868, and he was credited by order of said court by the amount of notes, one of which is sued on herein.

W. W. Frazier, who professed to be the assignee of said
72 Kelly claim, was before the court in said cause, and W. H. Todd, during the pendency of said suit, because, as he alleged in said cause, the owner of said claim before the said sale, report, and confirmation thereof was made by said Chicot circuit court. The claim of A. D. Kelley & Co. was set out in said bill first by said Frazier and afterwards by said Todd in a bill of revivor prior to said order of sale and confirmation, but no claim of priority was made by either Frazier or Todd.

An authenticated copy of said proceedings up to and including said final order of the Chicot circuit [court] confirming said sale will be hereafter filed, if not filed by defendant.

He says that after said proceeding, sale, and confirmation thereof, as aforesaid, the defendant Todd filed supplemental pleadings in said Chicot circuit court, in which he, for the first time, claims that the claim which belonged to A. D. Kelley & Co., and had been
73 assigned to him, was entitled to priority over other 4th class creditors of J. W. Craig, deceased. These pleadings set up other and new demands as between said Todd, assignee of the Kelley & Co. claim, and the other creditors of J. W. Craig, and he says neither he or his wife, Lucy D., was ever before the court (Chicot circuit court) in said proceedings, and that any judgment which said court may have rendered has no validity whatever as to this plaintiff or his wife.

He denies, however, that said Chicot circuit court had any jurisdiction whatever to adjudge that the said Kelly claim was superior to, and took preference over, plaintiff and his wife as to the proceeds of the sale of said one undivided fourth of said Bellevieu plantation, and the proceeds of said one undivided fourth of the aforesaid unimproved lands in Chicot court, which proceeds were adjudged to belong to and were in law and equity the property of the plaintiff.

He denies that said Chicot circuit court did in fact ever
74 decree or adjudged that said Kelley claim had priority over plaintiff and his wife as to the proceeds of said lands upon which they had specific liens.

He says that an examination of the record which is heretofore referred to in this reply, will show that said court, in an order entered October, 1868, distinctly recognized and adjudged that plain-

tiff's right to said proceeds were superior to all other creditors or claimants against the estate of Junius W. Craig, deceased.

The plaintiff says that his claim to said proceeds by the laws of Arkansas and by the laws of this State is superior to all other claimants or creditors of the said J. W. Craig, deceased.

He says that said notes, executed by the defendants Todd, October 28, 1868, were for a good and valid consideration, and he denies that the consideration thereof has failed. He denies that said A. D. Kelly & Co. claim was a preferred debt entitled to a preference over the claims of the plaintiff and his wife, and he denies
75 that said claim was a preferred claim entitled to preference over this plaintiff for the amount of the two notes aforesaid.

He says that the probate court of Chicot county, Arkansas, had no authority to put the claim of A. D. Kelly & Co. in the third (3rd) class, and that the order classifying said claim against the estate of Junius W. Craig, deceased, as being in the third class, and thus giving said claim a preference over the general debts which were classed in the 4th class *at* to the proceeds of the unimproved property was without authority of law and not within the jurisdiction of said probate court, and has no binding effect whatever.

He says that the order of the Chicot circuit court adjudging that said Kelly claim had a preference as to the proceeds of the sales of unincumbered real estate over the 4th class creditors of said J. W. Craig has no binding effect or validity as to this plaintiff,
76 because he was not a party to said proceedings by any process or authority known to equity practice or the statutes of said State of Arkansas. He says that said alleged claim of said defendant Todd, assignee of the A. D. Kelly & Co., is not a just demand against the estate of Junius W. Craig, deceased, and was not a just or subsisting debt against said estate when said Chicot circuit court adjudged that the claim should have preference in the distribution of the proceeds of the sale of the unincumbered real estate belonging to J. W. Craig, deceased.

The claim was at the time a fraudulent one, and had been long before that time paid and satisfied.

The plaintiff says that it is true that he and other creditors of Junius W. Craig, deceased, brought a suit in the Louisville chancery court of this State for the purpose of subjecting certain real estate of said Craig to the payment of his debts, and he says that
77 said defendant entered his appearance in said suit and set up by the pleadings his claims against said estate. The claims included, not only his own individual claim, but also the claim which he alleged he owed as the assignee of W. W. Frazier, who was, he alleged, the assignee of A. D. Kelley & Co.

He says that said proceeding progressed to a sale of said real estate of the said Craig, deceased, and to a final decree distributing said proceeds between the creditors of said Craig. He says that the Louisville chancery court gave an opportunity to all of the creditors of said Craig to come and demand a part of the proceeds of the sale of his said real estate, and defendant did come in by answer, as aforesaid: but, upon hearing, both of his claims, that held by him

as an original claim and that as assignee of the Kelly claim, were rejected by said court, and the proceeds of said sales decreed to other creditors of said Craig, deceased.

78 He denies that the whole of the proceeds of said sales were appropriated or secured by him. There were other creditors of said Craig who received an equal *pro rata* share of said proceeds with this plaintiff. He says that the *pro rata* received by him on his said debt was only seventy-one per cent., liking a very large amount over $16,000 still due on his debt, and that, too, after giving full credit for the amount of the two notes executed by defendant, as aforesaid, one of which is now sued upon herein.

Plaintiff denies that defendant was entitled to the quarter part of the proceeds of said property, or any part whatever.

He says that whole matter has long since been adjudicated by the Louisville chancery court of this State, and it has adjudicated that he has no right whatever to any part of said proceeds.

79 He says that the Arkansas courts had no authority over or control of the proceeds of the sale of the Kentucky property, and said Louisville chancery court [so] decided.

He denies that the Arkansas circuit court of the county of Chicot had jurisdiction over all of the assets of the estate of said Craig. That court had no jurisdiction whatever over the Kentucky assets, nor did it have any jurisdiction over the person of plaintiff and his wife further than is heretofore stated. This plaintiff did not attempt, and has never obtained, any unjust or unlawful advantage over defendants, in the distribution of the assets of said Craig, deceased.

Plaintiff says that the proceeds of the Kentucky real estate belonging to Junius W. Craig, deceased, which was sold by order of the Louisville chancery court, amounted to the sum of $53,971.09, and that sum was, by order of said court, distributed *pro rata* between the claims allowed by said courts. He says that the *pro rata*

80 of this plaintiff of these proceeds amounted to $40,272, which was credited on his sale bonds as of the 18th of October, 1872, leaving still unpaid to plaintiff a large balance of his debt. The amount of plaintiff's debt, as ascertained by said court, was on — day of July, 1873, $56,721.50, and not $——, as alleged by defendant. He says that in making up said sum of $56,721.50 a credit of $9,831 was entered as of the 18th of March, 1868, being the amount of the proceeds of the lands in Arkansas upon which plaintiff and his wife had a specific lien.

The opinion and decree of the Louisville chancery court, rejecting defendant's claims and dismissing him without granting any relief, was entered on the — day of July, 1872.

He will hereafter file a copy of the petition of plaintiff and the answer of defendant, together with said opinion and decree of the court.

81 He pleads the action and adjudication of said court in bar of so much of defendant's alleged counter-claim as seeks to retry said issues in regard to the Kentucky assets belonging to the estate of the said decedent.

He denies that defendant is entitled out of said assets to the sum of $7,213.59, or any other sum whatever.

He denies that defendant should have received out of said assets a *pro rata* share thereof, amounting to $20,304.98, or any other sum whatever.

Plaintiff says that his suit in the Louisville chancery court, to subject the estate of said Craig, lying in this State, was pending in March, 1866, when the bill was filed by Todd and others, creditors in Chicot circuit court.

Plaintiff further states that it is true that the purchase price of the land bought by the defendant Todd at the chancery sale on the — day of March, 1868, was $83,105.47.

The defendant was allowed a credit on these purchases for
82 the purchase price of "Yellow Bayou Plantation," which was $30,000, and the amount of the purchase price of the land which he purchased, upon which plaintiff and his wife had a specific lien, which amounted to $9,831, leaving the sum of $4,474.47 to be paid out for the expenses and charges of administration and the unsecured creditors of said Craig.

This plaintiff has no knowledge or information sufficient to form a belief whether or not the costs and expenses of the administration amounted to $33,006.80. He denies that defendant was by reason of his owning the Kelly claim entitled to the entire balance of said sum of $83,105.47 after deducting the expenses and charges of administration.

He denies that the claim of A. D. Kelly & Co. was legally a 3rd class claim. He denies that such claim was entitled to priority over all other claims against the estate of Junius W. Craig, except the costs of suit and charges of administration.

83 He denies that by reason of said alleged priority defendant was or is entitled out of the purchase-money owing by him on his said purchase to the sum of $50,098.67, and he denies that sum was by order of court or otherwise appropriated to pay so much of said Kelly claim.

He denies that said Kelly claim is entitled to have appropriated said sum of $50,098.67, or any other sum.

He denies that he sold and assigned to defendant any part of his debt against Junius W. Craig, deceased.

Wherefore, plaintiff having fully answered defendant's counter-claim, he prays as in the original petition.

H. P. MONTGOMERY,
Att'y for Woolfolk.

Joseph S. Woolfolk states that he believes the facts stated in the above reply are true.

JOSEPH S. WOOLFOLK.

84 Sworn to and subscribed by Joseph S. Woolfolk before me, this 13 November, 1876.

ATT. A. McCONATHY,
Clerk of Fayette Circuit Court.

The following is a copy of the amended petition filed by plaintiff, viz:

The plaintiff, H. G. Craig, amends his petition herein, and says that the consideration of the note sued on was not money furnished the defendant Todd, but the correct consideration thereof was the purchase of certain lands in Arkansas, at a judicial sale, as will be more fully set out hereafter, by Joseph S. Woolfolk.

He says that since the institution of this suit he has reassigned the note sued on to Joseph S. Woolfolk, who is now the owner and holder thereof.

Wherefore he asks that said Joseph S. Woolfolk be substituted as plaintiff herein instead of this plaintiff, and that the suit progress in his name.

H. G. CRAIG.

85 Sworn to before me by H. G. Craig, this 13th November, 1876.

ATT. A. McCONATHY,
Clerk of Fayette Circuit Court.

On the 17th day of November, 1876, at a circuit court held for Owen county, at the court-house, in the town of Owenton, the following order was made and entered of record in said suit, to wit:

This day came plaintiff, by attorney, and offered to file an amended petition herein, to which defendant objects. Objection overruled, and said amended petition ordered to be, and is now, filed; to which defendant excepts; and the defendant, waiving his right to — this cause, is now ordered to be prosecuted in the name of Joseph S. Woolfolk, plaintiff, and at his costs; thereupon said Woolfolk filed a reply.

86 On the 20th day of November, 1878, at a circuit court held for Owen county, at the court-house, in the town of Owenton, the following judgment was rendered, viz:

This cause coming on for trial and heard, and the court being of opinion that the defences made by defendant are insufficient, it is now adjudged that the plaintiff, Joseph S. Woolfolk, recover of the defendant, Wm. H. Todd, the sum of four thousand two hundred and forty-three dollars and twenty cents ($4,243.20), with interest thereon at 10 per cent. per annum, from 27 day of October, 1870, until paid, and his costs herein expended, and that the attachment sued out at the commencement of the action be, and the same is hereby, sustained, but no disposition of the attached property will be made at the present term. The defendant, W. H. Todd, excepts to the foregoing judgment and prays an appeals to the court of appeals which is granted. It is suggested that there are other liens upon the lands attached herein.

87 The plaintiff is required to amend, and being the lien holder before the court, and to that he may file supplemental pleadings in vacation.

Endorsed: Filed October 27, 1879. Ralph L. Goodrich, clerk.

88 UNITED STATES OF AMERICA, *Eastern District of Arkansas:*

Be it remembered that at a circuit court of the United States of America, in and for the eastern district of Arkansas, begun and holden on Monday, the 27th day of October, anno Domini one thousand eight hundred and seventy-nine, at the United States court-room, in the city of Little Rock, Arkansas, the Honorable Henry C. Caldwell, district judge, presiding and hold said court, the following proceedings were had, to wit, on November 12, 1879:

Comes the complainant by U. M. Rose, Esq., his solicitor, and by leave of the court files herein his amendment to bill.

Which amendment is as follows:

Your orator, the plaintiff herein, by way of amendment to his original bill herein, states that L. H. Springer, who is a citizen of the State of Arkansas, has sued out letters of administration on the estate of said William H. Todd, deceased, from the probate court of Chicot county, Arkansas, and has duly qualified thereunder.

89 Wherefore plaintiff makes said Springer, as such administrator, a defendant herein, and prays that he may be required to answer herein, and that your orator may have the same relief already prayed.

U. M. ROSE.

Endorsed: Filed Nov. 12, 1879. Ralph L. Goodrich, clerk.

And on November 13, 1879, as follows:

Come the complainants, by U. M. Rose, Esq., their solicitor, and, by leave of the court, files herein their amended bill of complaint, which amendment is as follows:

Comes the said plaintiff, and, by way of amendment to his bill herein, he says that the defendant, said Ben. H. Smith, has succeeded to all the right, title, and interest of the said William H. Todd in said lands named in said original bill, by conveyances made by said Todd, and by purchases under execution, so that all

90 the interest that said Todd had in said lands has become fully vested in said Smith before the death of said Todd. Plaintiff asks for no personal judgment herein, but only for a foreclosure of the liens held by him on the said lands, and for such other relief as he has already prayed.

U. M. ROSE.

Endorsed: Filed November 13, 1879. Ralph L. Goodrich, clerk, by W. P. Field, D. C.

And on March 15, 1880, as follows:

Come the defendants, Ben. H. Smith and ——— Springer, by F. W. Compton, their solicitor, and, on motion of said solicitor, leave is granted them until first Monday of April next to file their answers.

And on March 22, 1881, as follows:

Come the defendants, Ben. H. Smith and L. H. Springer, admin-

istrator of Wm. H. Todd, by F. W. Compton, Esq., their so-
91 licitor, and file herein their separate answers.

Which answer of Ben. H. Smith, is as follows:

In the United States Circuit Court, Eastern District of Arkansas.

JOSEPH S. WOOLFOLK *vs.* BEN. H. SMITH *et al.*

The defendant, Ben. H. Smith, for separate answer to the bill of complaint herein, says:

He admits the citizenship of the several parties to this cause to be as alleged in said bill; he also admits that the said William H. Todd died intestate, leaving him surviving the several persons named in said bill as his only heirs-at-law; and that letters
92 of administration on the estate of the said William H. Todd, deceased, were granted to L. H. Springer, as alleged in the amendment to said bill.

And this defendant, further answering, denies that, on the 27th day of October, 1868, the said William H. was indebted to the said plaintiff in the sum of eight thousand four hundred and eighty-six dollars and forty cents, or any other sum for the purchase-money of the lands mentioned in said bill, or any part thereof, and he also denies that a vendor's lien then, or at any other time thereafter, existed on said lands, or any part of the same, in favor of the said plaintiff; on the contrary thereof, this defendant avers the truth to be that on said day the said William H. executed to the said plaintiff the two promissory notes in said bill mentioned for the
93 consideration and under the circumstances following, and none other, to wit: The lands mentioned and described in the bill of complaint herein were commonly known as "Bellevue Plantation," the legal title to which was in Junius W. Craig at the time of his death. The undivided fourth part of said Bellevue plantation the said Junius W., on the 5th day of December, 1856, acquired by purchase on time from the said Lucy D. Woolfolk (then Lucy D. Craig); who, in her deed of that date, conveyed the same to the said Junius W., reserved a lien by way of mortgage to secure the payment of the purchase-money. Said purchase-money was not paid in the lifetime of the said Junius W., and after his death, in a cause in the circuit court of Chicot county, in chancery, under the style of The Creditors of the Estate of Junius W. Craig, deceased, against Emma J.
94 Wright, as executrix of the last will and testament of Junius W. Craig, deceased, *et al.*, mentioned in said bill, it was decreed by said court that all the lands of the estate of the said Junius W., deceased, lying in the State of Arkansas, should be sold for cash in hand, and the proceeds of such sale distributed among the creditors of said estate; and it was by said court in said cause further decreed that in all cases where any of said lands was encumbered by a specific lien thereon the same shall be so sold as to satisfy such lien and convey to the purchaser thereof an unincumbered title thereto in fee-simple; and to that end the said Bellevue plantation was not only sold under the decree of said court directing the sale of the lands of said estate generally for the purpose aforesaid, but was

also sold under the lien held by the said plaintiff and his
95 wife, the said Lucy D., "as upon foreclosure," thus passing to the purchaser, not merely the equity of redemption, but the title in fee-simple absolute, released of said lien. And the said William H. having purchased the said Bellevue plantation at said sale for the sum of thirty-five thousand dollars cash, it was by said court further decreed that one fourth of that amount belonged absolutely to the said plaintiff and his wife, the said Lucy D., as the fruits of their said lien, and directed that the same should be paid to them; and at this stage of the proceedings in said cause the said plaintiff and his wife, the said Lucy D., by their solicitors, appeared in open court and agreed to take for said amount of cash so ordered to be paid them the notes of the said William H., payable at one and two years, and then and there consented that title
96 to the undivided one-fourth part of said Bellevue plantation might be made to him in fee-simple absolute under his said purchase, all which more fully appears by a copy of the decree of said court attached to said bill of complaint as Exhibit "A," and to which this defendant refers; and pursuant to the agreement and consent thus made and given, and of record in said court, the two promissory notes mentioned in said bill of complaint were executed; to secure the payment of which said promissory notes, the deed of mortgage mentioned and relied on in said bill of complaint was executed, not only on the undivided one-fourth part, but on the whole of said Bellevue plantation.

And this defendant further answering, admits that he is in the exclusive possession of all said Bellevue plantation, and that
97 he has succeeded to all the right, title, and interest of the said William H. in and to said lands by a conveyance made to him by the said William H. and, by purchase under execution, as charged in said bill of complaint and the amendment thereto, as more fully appears by an authenticated copy of a deed of conveyance from the said William H. to this defendant, dated 29th day of October, 1869, one authenticated copy of the judgment of the circuit court of Chicot county; an authenticated copy of the order of said court, and authenticated copy of deed of conveyance from Samuel H. Holland, as sheriff of said Chicot county, to this defendant, dated the 22nd day of April, 1879; an authenticated copy of the decree of said circuit court, in chancery, and of a deed of con-
98 veyance from said Samuel H. Holland, as sheriff of said county, to this defendant, dated the 6th day of October, 1877, and an authenticated —— of the judgment of said court in the case of James W. Cooper *vs.* William H. Todd, and of two several deeds of conveyance from said Samuel H. Holland, as sheriff as aforesaid, to this defendant, each dated the 7th day of June, 1879, all which are hereto attached, marked Exhibits A, B, C, D, E, F, G, H, and K, and made part hereof.

And this defendant, further answering, says that he is informed and believes, and avers the facts to be, that the said William H. and the said plaintiff, both being creditors of the estate of the said Junius W., deceased, to a large amount, and said estate being known

to be insolvent, some contention arose between the said Wil-
99 liam H. and the said plaintiff, at some time prior to the maturity of the said promissory note last falling due (the other said promissory note having been previously paid), touching the distribution of the assets of said estate among the creditors thereof, the said William H. insisting that the said plaintiff had thus received and appropriated to the payment of his debt, or was about to receive and appropriated more than his just proportion of the assets of said estate, and that upon a fair settlement between themselves, as creditors of said estate, it would be found that *that* the said William H. did not owe the said plaintiff anything on said mortgage and promissory note last falling due, but that the said plaintiff would be found largely indebted to the said William H., who then and ever afterwards openly refused to make further payment on said
100 mortgage, or to regard the same as an existing incumbrance on said Bellevue plantation. In fact, this defendant avers that at the time of the execution by the said William H. of the deed of conveyance of the 29th day of October, 1869, conveying to this defendant the one undivided half of said Bellevue plantation, the said William H. and this defendant, for the reason that the said plaintiff, as creditor of the estate of the said Junius W., deceased, had received or was about to receive more than his just proportion of the assets of said estate, did not treat the said mortgage of the said William H. to the said plaintiff as being any longer in force, or a lien on said mortgage premises; so far from doing so, this defendant says that immediately upon his purchase of the one undivided half of said
101 Bellevue plantation as aforesaid, he, under his said deed of 29th October, 1869, entered into the possession thereof as tenant in common with the said William H., and from that time until the 29th day of April, 1879, this defendant and the said William H., as such tenants in common, held continuously the peaceable, exclusive, adverse possession of said Bellevue plantation in open hostility to any right of the said plaintiff by reason of either the said pretended mortgage lien or the said pretended vendor's lien, for purchase-money, as alleged in said bill of complaint; and from said 29th day of April, 1879 (this defendant having then become the purchaser of the other undivided half of said Bellevue plantation), until now, this defendant has continuously held like peaceable, exclusive, ad-
102 verse possession of the whole of said Bellevue plantation, in severalty, as owner in fee-simple thereof, and in like hostility to the pretended liens of the said plaintiff, as claimed in said bill of complaint. And so this defendant, further answering, says that the said plaintiff's alleged cause of complaint did not accrue within seven years next before the commencement of this suit, and he, therefore, prays the benefit of the statute of limitations of seven years, at the final hearing of this cause, fully to all intents and purposes as if the same were formally pleaded.

And this defendant, further answering, says that on the 23rd day of January, 1880, the said cause in said Chicot circuit court, in
103 chancery, under the style of "the creditors of the estate of Junius W. Craig, deceased, against Emma J. Wright, as exec-

utrix of the last will and testament of Junius W. Craig, deceased, *et al.*," in which the said plaintiff and his wife, the said Lucy D., the said William H., in his lifetime, and L. H. Springer, as administrator of the estate of the said William H. after his death, had entered their appearance as parties thereto, coming on for final hearing, and it appearing to the court, upon a proper adjustment of the rights of the creditors of the estate of the said Junius W., deceased, touching the distribution of the assets of said estate among said creditors, that the said plaintiff and his wife, the said Lucy D., were indebted to the estate of the said William H., deceased, in the sum of $37,995.65, it was, therefore, ordered, adjudged, and decreed by said court
104 that the said L. H. Springer, as administrator of the estate of the said William H., deceased, have and recover of and from the said plaintiff and his wife, the said Lucy D., said sum of thirty-seven thousand and nine hundred and ninety-five dollars and sixty-five cents, and that payment thereof be enforced by execution, as upon judgments at law; which said decree remains in full force, and has never been paid; all which now fully appears by an authenticated copy of the record and proceedings in said cause and of the said final decree therein, hereto attached, marked Exhibit "L," and made part hereof. And this defendant is informed and believes that the said L. H. Springer, as administrator as aforesaid, is willing and offers to enter as a credit on the decree recovered by him
105 as aforesaid against the said plaintiff and his wife, the said Lucy D., the full amount of money alleged in said bill to be due to such plaintiff from the estate of the said William H., deceased, and thus pay and, forever satisfy the said claim of the said plaintiff; which offer this defendant insists the said plaintiff should in equity be required to accept.

And this defendant further answering, admits that the said plaintiff, on the 16th day of October, 1875, brought suit on the promissory note in the said bill mentioned, in the circuit court of Owen county, in the State of Kentucky, and that on the 20th day of November, 1878, a decree thereon was entered in said court against
106 the said William H., for four thousand two hundred and forty-three $\frac{2}{100}$ dollars; but this defendant is informed and believes that said suit is still pending and undetermined in the court of appeals of the State of Kentucky, to which last-mentioned court an appeal was prosecuted; and this defendant says that said suit was not brought for the enforcement of a lien, nor was any lien enforced by the decree in said suit, but that said decree was merely for the recovery of the money due on said promissory note.

And this defendant, further answering, says that the facts set forth in said complaint are not sufficient to entitle said plaintiff to the relief he seeks, or to any relief in a court of equity, and this defendant therefore prays the benefit of a demurrer at the final hearing, for want of equity in said bill.

107 And now, having fully answered, this defendant prays to be hence dismissed, with his reasonable costs in this behalf expended.

F. W. COMPTON,
Solicitor for Def't.

STATE OF ARKANSAS, *County of Chicot:*

Ben. H. Smith, whose answer the foregoing is, states on oath: That the facts therein stated as of his own knowledge are true, and those stated on information he verily believes to be true.

BENJ. H. SMITH.

Subscribed and sworn to before me, this 19th day of March, 1880.

[SEAL.] JAS. McMURRAY,
Notary Public.

108 EXHIBIT "A" TO ANSWER OF B. H. SMITH.

This deed of conveyance, made the (29) twenty-ninth day of October, in the year of our Lord one thousand eight hundred and sixty-nine, at the county of Chicot, in the State of Arkansas, by Wm. H. Todd and Amanda M. Todd, his wife, of the first part, to Benjamin H. Smith, of the second part, witnesseth:

That for and in consideration of the sum of nineteen thousand two hundred and fifty dollars, whereas the sum of five thousand two hundred and fifty dollars is unto him, the said Wm. H. Todd, in hand paid at and before the ensealing and delivering of these presents, and the receipt of so much is hereby acknowledged, and the remaining sum of fourteen thousand dollars is by the said Benjamin H. Smith
109 secured to be paid to him, the said Wm. H. Todd doth hereby grant, bargain, and sell unto the said Benjamin H. Smith the one equal undivided half of the following-described lands and tenements lying and situate in the said county of Chicot, and constituting what is known as the Bellevue plantation, that is to say: Of the south half of the south half of section four, containing 160 acres; of the south diagonal half of the north half of the south half of section four, containing 80 acres; of fractional section five, containing 648 71-100 acres; of the east fractional half, the southwest quarter, and the south half of the northwest quarter of section six, containing, together, 565 60-100 acres; of fractional section seven,
110 containing 640 71-100 acres; of the southwest quarter the east half of the northwest quarter, and the west half of the southeast quarter of section 8, containing, together, 320 acres; and of the northeast quarter of section 18, containing 160 acres; all in township 15 south of range one west of the fifth principal meridian, as the same are marked and designated on the plans of the public surveys of the lands of the United States, and the whole of which lands, wherein an undivided half is hereby conveyed, containing, according to the said surveys, 2,575 2-100 acres of land.

To have and to hold the said undivided half of said lands and tenements, with the hereditaments and appurtenances thereunto in anywise belonging or appertaining, unto the said Benjamin H. Smith and his heirs forever.

111 And the said William H. Todd doth also, for *for* the consideration aforesaid, give and grant unto the said Benjamin H. Smith, his heirs and assigns, forever, by way of servitude in favor of the lands hereby granted as the dominant estate and tenement,

the right at all times hereafter forever, jointly with the children of the said Wm. H. Todd other than the wife of said Benjamin H. Smith, the same servitude being created in favor of the other undivided half of said lands, and in favor of the lands constituting the Yellow Bayou plantation, which is adjacent to said Bellevue plantation, and jointly with the heirs and assigns of said other children, of free passage on foot or horseback, and with carriages and wagons, carts, and other conveyances for himself and his servants and laborers over, across, and through the west half of the northwest quarter of said section eight, in township fifteen south of
112 range one west, aforesaid, for the purpose of conveying the cotton raised by him and grain to the gin-house and mill on said tract of land, and of conveying such cotton and the seed and the meal of such grain from the said gin-house and mill, and with the right at all times hereinafter of joint use with the said other children of the said gin-house and of the press on said tract of land and of the mill for all his necessary uses, and those of his said heirs and assigns, as proprietors of the said undivided half of the said lands, free of all charge, except his proportion of the costs of necessary repairs of the said gin-house, gin-press, and mill, and the machinery thereof. And the said William H. Todd doth hereby covenant with the said Benjamin H. Smith, his heirs and assigns,
113 that he is seized in fee and full proprietorship of the said lands, and with full power and good right to sell and convey the same; that the same are free of incumbrances by him done or suffered and of all incumbrances, except the mortgage, or part thereof executed by Silas Craig to the State of Arkansas for stock subscribed and taken by him in the Real Estate Bank of the State of Arkansas; and that he will, and his heirs, executors, and administrators shall forever warrant and defend the said undivided half of the said lands, and of every part and parcel thereof, to the said Benjamin H. Smith, his heirs and assigns, against the lawful claims of all persons whomsoever, except against such claims as may arise under and by virtue of the mortgage aforesaid.

114 And the said Amanda M. Todd, for the consideration aforesaid, and in further consideration of one hundred dollars to her in hand paid by the said Benjamin H. Smith, the receipt of which is hereby acknowledged, doth hereby grant, bargain, sell, cede, and relinquish unto the said Benjamin H. Smith all her interest in said land as wife of said Wm. H. Todd, and right of dower therein, and in every part thereof.

In witness whereof, the said William H. Todd and Amanda M. Tood do hereunto set their hands and affix their seals, the day and year first aforesaid.

WM. H. TODD. [SEAL.]
A. M. TODD. [SEAL.]

Signed, sealed, and delivered by William H. and Amanda M. Todd in our presence, the 29th October, 1879.

ALBERT PIKE.
LUTHER H. PIKE.

115 STATE OF ARKANSAS, *County of Chicot:*

Be it remembered that on this 13th day of November, in the year of our Lord 1869, in the county of Chicot, in the State of Arkansas, before me, Wm. B. Street, an acting and commissioned justice of the peace of said county, personally came and appeared William H. Todd, to me personally well known, and acknowledged that he had voluntarily executed the foregoing deed of bargain and sale, and delivered the same to the said Benjamin A. Smith for the uses, purposes, and considerations therein expressed, and desired the same to be certified for record.

And at the same time and place also personally came and appeared before me Amanda Melvina Todd, wife of the said William H. Todd, also to me personally well known, and, being by me ex-
116 amined, separate and apart from and in the absence of her said husband; and the tenor and effect of the foregoing conveyance being by me fully made known to her, she declared and acknowledged that she voluntarily, of her own free will and accord, without persuasion or compulsion or undue influence of her said husband executed and delivered the same, and relinquished her dower in the lands hereby conveyed, for the uses, purposes, and considerations herein expressed, and desired the same might be certified for record.

Given under my hand, as such justice of the peace aforesaid, day and year aforesaid.

WM. B. STREET, *J. P.*

[$20 U. S. rev. stamps affixed.]

Filed for record this 3d day of December, A. D. 1869. Amount of U. S. rev. duly affixed.

Attest: H. W. GRAVES, *Clerk.*

117 *Attest:* *H. W. GRAVES.*

Endorsed thereon: "April 29, 1873. The full amount of the consideration of the within deed, W. H. Todd and wife to B. H. Smith, has been fully paid and settled. Wm. H. Todd."

EXHIBIT "B" TO ANSWER OF B. H. SMITH.

BENJ. H. SMITH
vs.
WILLIAM H. TODD. } 957.

On this day this cause coming on to be heard, both parties being present by their attorneys, and announcing themselves ready for trial of this cause, and thereupon came a jury of S. N. Caughey and eleven other good and lawful jurors, who were sworn to well
118 and truly try this case and a true verdict render according to the evidence and law in the case; and after hearing the evidence and instructions of the court, returned into court with the following verdict endorsed upon the complaint: We, the jury, find for the plaintiff, and assess his damages at $8,000. S. N. Caughey, foreman.

It is therefore ordered and adjudged and considered by the court that the plaintiff, B. H. Smith, have and recover of and from the defendant, Wm. H. Todd, the sum of eight thousand dollars, with interest from this date, and all costs in this suit; and it further appearing that this is a suit by attachment, and that the writ of attachment herein was, on the 8th day of August, 1876, duly and
119 properly levied upon the following property: Thirteen head of mules, two horses, six head of cattle, two head of sheep, and a lot of farming utensils, all particularly described *and* said writ. And also, on the 19th day of December, 1876, that said writ was duly levied upon the following-described real estate: Und. ½ section 5; und. ½ west half Sec. 8; und. ½ W. ¼ S. E. ¼ sec. 8; und. ½ S. ½, S. ½ sec. 4; und. ½ diagonal S. ½ N. ½, S. ½ sec. 4; all in township 15 S., R. 1 W.; also all fr'l Sec. 12 E. of W. bank of Yellow Bayou, the property of defendant herein, and is a lien upon the same from the date of said levy—

It is therefore ordered that said property, or so much thereof as is necessary, be sold to satisfy the judgment herein by the sheriff upon his first giving twenty days' notice of the time, place, and terms of sale, in accordance with law.

120 STATE OF ARKANSAS, *County of Chicot:*

I, Geo. T. Wilkinson, clerk of the court, do hereby certify that the above and foregoing writing contains a true and correct copy of a judgment rendered at the July term, 1877, in favor of Benj. H. Smith, and against W. H. Todd.

Witness my hand and the seal of said court hereto affixed, this 29th day of December, 1879.

[SEAL.] GEO. T. WILKINSON, *Clerk*,
By W. W. WILKINSON, *D. C.*

EXHIBIT "C" TO ANSWER OF B. H. SMITH.

BENJAMIN H. SMITH
v. } 957.
WILLIAM H. TODD.

121 On this day came the plaintiff by his attorney, as well as the defendant by his attorney, and it appearing to the court that the time and place of sale of the property attached in this suit had not been entered upon at the last term of this court in the judgment as rendered, it is, on motion of plaintiff, considered and adjudged that said judgment be made to speak the truth now as for then, by fixing the place of sale of the attached property at the dwelling-house on Yellow Bayou plantation, and the time the first Monday in April, 1878, the sheriff giving twenty days' notice of said sale, as required by law.

STATE OF ARKANSAS, *County of Chicot:*

I, Geo. T. Wilkinson, clerk of the circuit court in and for the county and State aforesaid, do hereby certify that the above

122 and foregoing writing contains a true and correct copy of an order of the circuit court in the suit of Benj. H. Smith *vs.* Wm. H. Todd, made at the January term, 1878, on the 31st day of January, 1878, a day of said term of said court, as the same appears of record in my office in record of Ct. Ct. "H," page 342.

Witness my hand and the seal of said court hereto affixed, this 29th Dec., 1879.

[SEAL.] GEO. T. WILKINSON, *Clerk.*
By W. W. WILKINSON, *D. C.*

EXHIBIT "D" TO ANSWER OF BEN. H. SMITH.

Samuel H. Holland, as sheriff of Chicot county, to Benjamin H. Smith:

STATE OF ARKANSAS, *County of Chicot:*

123 Samuel H. Holland, as sheriff of Chicot county, to all to whom these presents shall come, Greeting:

Whereas on the 22d day of February, 1878, there was issued from the clerk of the circuit court for Chicot county, signed by the clerk and attested by the seal of said court, a certain writ of execution, in the name of the State of Arkansas, and to me as such sheriff directed, and which came to my hands on the 23rd day of February, 1878, at 10 o'clock a. m. of said day, the recitals of which writ of execution are as follows, to wit:

The State of Arkansas to the sheriff of Chicot county: Whereas, Benjamin H. Smith has heretofore, to wit, on the 4th day of August, A. D. 1876, instituted in the circuit court of Chicot county, Arkansas, his suit by attachment against Wm. H. Todd, the writ
124 whereof was levied upon certain property and effects of the said Wm. H. Todd, to wit, one brown horse mule, named Mack; one brown horse mule, named Dan; one black mare mule, named Emma; one sorrel mare mule, named Celia; one grizzle horse mule, named Pete; one black mare mule, named Down; one black mare mule, named Davies; one brown horse mule, named John; one black jack, named Jack; one cream-colored horse mule, named Burke; one dray horse, named Glass; one black horse, named George; one roan mare, named May; one sorrel pony; one stud colt (white); two white cows; one white calf; one spotted calf; one yearling; one spotted cow; two sheep; three farm wagons; one carriage; one cart; one set carriage harness; one gin stand; twelve set plow gear; seven plows; eight side lines; two sweeps; one pair cotton balances, and one gin stand; also an undivided ½ of Sec. 5, und. ½ W. ½ of Sec. 8, and ½ W. ½ S.E. ¼ Sec. 8; und. ½ S. ½
125 S. ½ Sec. 4; and ½ (diag.) S. ½ of N. ½ Sec. 4; all in township 15 S., R. 1 west; also all of fractional section 12 east of W. bank of Yellow Bayou, as by the return upon said writ of attachment appears; and whereas the said Benjamin H. Smith, in our said circuit court, on the 25th day of July, A. D. 1877, recovered judgment for the sum of $8,000 for his damages, and $—— for costs of

suit, against said Wm. H. Todd, which bears interest at the rate of 6 p. c. per annum from the 25th day of July, 1877, until paid: You are, therefore, hereby commanded that out of the above-described property and effects, or so much thereof as shall be necessary, you cause to be made the sum of eight thousand dollars ($8,000), recovered as aforesaid, with 6 p. c. per annum interest thereon from the 25th day of July, 1877, until paid, and the further sum of $——, which was adjudged
126 to the said Benjamin H. Smith for his costs in said suit expended, and that you have said sums of money within — days to render to the said Benjamin H. Smith, for his debt, interest, and costs aforesaid. By virtue of a *nunc pro tunc* order made at the January term, 1878, of this court, in the within-entitled cause, you are hereby authorized and directed to make sale of the attached property herein described and mentioned, at the dwelling-house of W. H. Todd, on the Yellow Bayou plantation, on the first Monday in April, 1878, first giving (20) twenty days' notice of such sale as required by law. And in obedience to the commands of said writ, and in order that the same might be executed and satisfied, I did afterwards, to wit, on the 9th day of March, A. D. 1878, advertise the said tracts and parcels of land and personalty for sale, accord-
127 ing to law for twenty days, by an advertisement inserted and published by two insertions before the day of sale in the Arkansas City Post, a weekly newspaper published and printed in said county of Chicot, and by posting printed advertisements at the court-house door of said county, and five other public places in said county, one being upon the premises to be sold, to be sold at the dwelling-house of said W. H. Todd, on the Yellow Bayou plantation, on the first Monday in April, 1878, at which time and place I attended, and between the hours prescribed by law for judicial sales of said day I offered and cried the said personal property, the said tracts and parcels of land for sale in separate tracts and parcels as hereinafter described, to the highest bidder; and the said Benjamin H. Smith, being the highest and best bidder, became the purchaser of
128 the following tracts and parcels of land, being the same seized and levied upon as before mentioned, to wit:

Ne ¼ of ne ¼ of sec. 5, town. 15 S., R. 1 W.	$100 00
Nw ¼ of ne ¼ " " " " " " " "	100 00
Sw ¼ of ne ¼ " " " " " " " "	100 00
Se ¼ of ne ¼ " " " " " " " "	100 00
Ne ¼ of nw ¼ " " " " " " " "	100 00
Nw ¼ of nw ¼ " " " " " " " "	100 00
Sw ¼ of nw ¼ " " " " " " " "	100 00
Se ¼ of nw ¼ section 5, town. 15 S., R. 1 W., for	100 00
Ne ¼ of sw ¼ " " " " " "	100 00
Nw ¼ of sw ¼ " " " " " "	100 00
Sw ¼ of sw ¼ " " " " " "	100 00
Se ¼ of sw ¼ " " " " " "	400 00
Ne ¼ of se ¼ " " " " " "	100 00
Nw ¼ of se ¼ " " " " " "	100 00

	Sw ¼ of se ¼	section	5,	town.	15 S.,	R. 1 W.,	for	$100 00
	Se ¼ of se ¼	"	"	"	"	"	"	100 00
	Se ¼ of se ¼	"	4	"	"	"	"	5 00
	Sw ¼ of se ¼	"	"	"	"	"	"	25 00
	Se ¼ of sw ¼	"	"	"	"	"	"	50 00
	Sw ¼ of sw ¼	"	"	"	"	"	"	100 00
	Ne ¼ of nw ¼	"	8	"	"	"	"	100 00
	Nw ¼ of nw ¼	"	"	"	"	"	"	500 00
	Sw ¼ of nw ¼	"	"	"	"	"	"	50 00
	Se ¼ of nw ¼	"	"	"	"	"	"	50 00
129	Nw ¼ of se ¼	sec.	8,	town.	15 S.,	R. 1 W.,	for	50 00
	Sw ¼ of se ¼	"	"	"	"	"	"	10 00
	Ne ¼ of sw ¼	"	"	"	"	"	"	50 00
	Nw ¼ of sw ¼	"	"	"	"	"	"	50 00
	Sw ¼ of sw ¼	"	"	"	"	"	"	50 00
	Se ¼ of sw ¼	"	"	"	"	"	"	50 00
	Ne ¼ of ne ¼	"	12	E. of W.	bank	Yellow	B.	50 00
	Se ¼ of ne ¼	"	"	"	"	"	"	50 00
	Ne ¼ of se ¼	"	"	"	"	"	"	50 00
	Se ¼ of se ¼	"	"	"	"	"	"	25 00

At and for the price respectfully set opposite each of said tracts, amounting in the aggregate to the price and sum of three thousand one hundred and seventy-five dollars ($3,175) for all of said tracts, which was the greatest amount then and there bid for the same; and whereas at the time of said sale I made and executed to the said purchaser, Benjamin H. Smith, a certificate of purchase of said lands, as prescribed by law; and whereas the full period of twelve months has elapsed since said sale of said tracts and parcels
130 of land as aforesaid, yet the said Wm. H. Todd, nor any judgment creditor of the said Wm. H. Todd, hath not redeemed the said tracts or parcels of land, or either of them, as prescribed by law:

Now, therefore, know ye that I, the said Samuel H. Holland, in my capacity as sheriff, in consideration of the sum of three thousand one hundred and seventy-five dollars aforesaid bid by said Benjamin H. Smith, the plaintiff in said suit, for said tracts and parcels of land as above herein set out, and ordered by said plaintiff to be placed as a credit on said judgment, which was done, have bargained, sold, and conveyed, and by these presents do bargain, sell, and convey, to the said Benjamin H. Smith all the right, title, interest, and claim which the said Wm. H. Todd had at the time of the issue of said writ of attachment, the rendition of said judgment, the issue of said execution, or at any time thereafter
131 to the before mentioned and described tracts and parcels of land. To have and to hold the same to the said Benjamin H. Smith, his heirs, executors, administrators, and assigns, to their only use, benefit, and behoof, forever.

In testimony whereof, I have hereunto set my hand as such sheriff, this 22nd day of April, A. D. 1879.

SAMUEL H. HOLLAND,
Sheriff of Chicot County, Arkansas.

STATE OF ARKANSAS, *County of Chicot:*

On this the 29th day of April, 1879, before me, Geo. T. Wilkinson, as clerk of the circuit court in and for the county and State aforementioned, appeared in person Samuel H. Holland, as sheriff of said county, to me personally known as the person whose name appears upon the within and foregoing deed of conveyance
132 as the party grantor, and acknowledged that he had executed the same, in his capacity as sheriff of said county, for the uses, purposes, and considerations therein mentioned and set forth, and I do hereby so certify.

Witness my hand and the seal of said court hereto affixed, this day and date above written.

GEO. T. WILKINSON, *Clk, &c.*

Filed for record April 29, 1879.
Recorded June 30, '79.

EXHIBIT "E" TO ANSWER OF B. H. SMITH.

Decree.

At the May term, 1873, of the Chicot circuit court, in chancery, on the 14th day of May, 1873, among others the following proceedings were had, viz:

133 THE CREDITORS OF JUNIUS W. CRAIG, Deceased, } 82.
vs.
EMMA J. WRIGHT, Ex., &c. }

On this day, on motion and by consent of the parties, it is ordered, adjudged, and decreed that the claim of Wm. P. Halliday against the estate of Junius W. Craig for the sum of $8,983, as allowed by the Chicot probate court on May 8th, 1868, and ordered to be paid as expenses of administration, and which judgment was affirmed in all things by the Chicot circuit court at this its May term, 1873, and which claim, with interest since May 8th, 1868, amounts to eleven thousand six hundred and eighty-nine dollars, be paid by William H. Todd out of the assets of said estate in his hands, in three installments, as follows: First, the sum of $3,897, together with ten
134 per cent. per annum interest thereon from May 15th, 1873, be paid on the 30th day of January, 1874; and, second, the sum of $3,896, together with ten per cent. per annum interest thereon from May 15th, 1873, be paid as follows: The interest to January 20th, 1874, to be paid at that time, and the interest from January 30th to July 30th, 1874; and that said sum of $3,896 and the interest from July 30th, 1874, to January 30th, 1875, be paid on January 30th, 1875; and, third, the sum of three thousand eight hundred and ninety-six dollars, together with ten per cent. per annum interest thereon from May 15th, 1873, be paid as follows: The interest on said sum up to January 30th, 1874, to be paid on that day, and that the interest be paid semi-anually thereafter until January 30th, 1876,

when said principal sum of $3,896 with the interest then due
135 is to be paid; and that said payments of principal and interest be made without days of grace, and that in default of payment of any of said installments of principal or interest, then and in such case the whole of said claim of eleven thousand six hundred and eighty-nine dollars, with interest thereon as aforesaid that may remain unpaid, shall become due and payable, and may be enforced by execution or by attachment for contempt of court.

And it is further ordered and decreed that on the payment of said sum of eleven thousand and six hundred and eighty-nine dollars and interest as aforesaid, by said Todd, that he shall have credit for said sum of $11,689.00 on settlement of the assets in his hands, as of the 15th day of May, 1873.

And it is further ordered that all liens to secure the pay-
136 ment of the assets now in the hands of said Todd remain in full force until the payment of said claim, as herein ordered and decreed to be paid.

And it is further ordered and decreed that said Wm. H. Todd pay all costs in the prosecution of said claim, and that same be enforced by execution or by attachment.

EXHIBIT "F" TO ANSWER OF B. H. SMITH.

Sheriff's Deed.

S. H. Holland, Sheriff, to Benj. H. Smith.

To all whom these presents shall come:

I, Samuel H. Holland, sheriff of Chicot county, Arkansas, send greeting:

137 Whereas, by virtue of a writ of execution, issued out of the circuit court of Chicot county, in favor of William P. Halliday against Elevine E. Bolivar and William H. Todd to the sheriff aforesaid, directed and delivered, commanding him that of the estate of the Eveline E. Bolivar and William H. Todd, in his county, he should cause to be made certain monies in said writ of execution specified, as on reference to said writ, now on file in said court, will more fully appear; and whereas the said sheriff did, in obedience to the said command, levy on, take, and seize all the estate, right, title, and interest of said Eveline E. Bolivar and William H. Todd in and to the lands, tenements, real estate, and premises hereinafter particularly set forth and described, with the appurtenances, and did, on the
138 28th day of September, 1876, sell said premises at public auction, at the front door of the court-house of said county of Chicot, he having first given notice of the time, place, and the terms of the sale by advertising the same according to law, at which sale the said premises were struck off and sold to Benjamin H. Smith for the sum of seven hundred and ninety-six and $\frac{71}{100}$ dollars ($796.71), he, the said Benjamin H. Smith, being the highest bidder therefor, and purchaser thereof for said sum of $796.71; whereupon the said sheriff, after receiving from the said purchaser the said sum of money so bid as aforesaid, gave to him such certificate as is by law

directed to be given, a copy of which was filed with the said
139 writ of execution; and whereas the twelve months after the date of said certificate and sale have expired, without any redemption of the said premises having been made: Now, this indenture witnesseth, that I, Samuel H. Holland, the sheriff as aforesaid, by virtue of said writ, and in pursuance of the statutes in such cases made and provided, for and in consideration of the sum of money above mentioned, to me in hand paid as aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, sell, convey, and confirm unto the said Benjamin H. Smith, his heirs or assigns, all the estate, right, title, and interest of the said Eveline E. Bolivar and William H. Todd whereof they were seized or possessed
140 at the time of the rendition of the judgment or decree on which said writ of execution was issued, or at any time thereafter, in and to all that portion of the lands in said county of Chicot known and described as follows, to wit, the south half of the northwest quarter of section six (S. ½ N. W. ¼ Sec. 6), the southwest quarter of section six (S. W. ¼ Sec. 6), the northwest quarter of section seven (N. W. ¼ Sec. 7), and the southwest quarter of section seven (S. W. ¼ Sec. 7), all in township 15 south, range 1 west, together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appurtaining. To have and to hold the said above mentioned and described premises, with the appurtenances, unto the said Benjamin H. Smith, his heirs and as-
141 signs, forever, as fully and absolutely as I, Samuel H. Holland, the sheriff aforesaid, may, can, or ought to, by virtue of the said writ and of the statutes in such cases made and provided, grant, bargain, sell, convey, and confirm the same.

In witness whereof, I, the said sheriff, have hereunto set my hand and seal on this 6th day of October, A. D. 1877.

S. H. HOLLAND, *Sheriff.*

STATE OF ARKANSAS, *County of Chicot:*

Be it remembered that on this 25th day of January, 1878, personally appeared before me, S. H. Holland, sheriff of Chicot county, to me well known, and whose genuine signature appears above, and acknowledged that he executed the above and foregoing deed
142 of conveyance for the uses, purposes and considerations therein mentioned and set forth.

Witness my hand as clerk of the circuit court for said county and State, this 25th January, 1878.

[SEAL.] H. W. GRAVES, *Clerk.*

Filed for record January 25th, 1878, at 4½ p. m.

H. W GRAVES, *Clerk.*

By GEO. T. WILKINSON, *D. C.*

Chicot Circuit Court. January Term, 1878.

JAMES W. COOPER, Complainant at Law, *against* WILLIAM H. TODD.

The plaintiff, James W. Cooper, states that on the 24th day of September, 1877, in the court of common pleas No. one for the county of Philadelphia, State of Pennsylvania, he obtained judg-
143 ment, duly given against the defendant, William H. Todd, for the sum of six thousand three hundred dollars, a duly certified copy of said judgment, and the record of said court is herewith filed and asked to be taken as part of this complaint.

Plaintiff further states that no part of said judgment has been paid, wherefore he prays judgment for said sum of six thousand three hundred dollars, and interest thereon from said 24th Sept., 1877, and for other proper relief.

JAMES F. ROBINSON,
Attorney for Plaintiff.

I undertake that plaintiff shall pay to the defendant, William H. Todd, and to the officers of the court, all costs that shall accrue to them in this action either in this court or in any other court
144 to which it may be carried.

J. F. ROBINSON.

(Endorsed:) Filed and appearance of def't entered in open court, January 16th, 1878. H. W. Graves, clerk, by Geo. T. Wilkinson, D. C.

Exemplification.

PHILADELPHIA COUNTY, } *Sct:*
State of Pennsylvania, }

Among the records and proceedings of the court of common pleas No. one for *for* the county of Philadelphia, State of Pennsylvania, the following may be found as matter of file and of record at No. 40, September Term, 1877, to wit:

Docket Entries, September Term, 1877.

145 JAMES W. COOPER, } 40.
vs.
WILLIAM H. TODD. }

Judgment entered on a bond and warrant of att'y dated August 18, 1876, for $6,300.00, conditioned for the payment of $3.150.00 in five years from date, with interest, payable half yearly, together with taxes, &c., and in default of payment of interest for 30 days after any half yearly payment shall [become] due, or taxes, &c., for 30 days after notice in writing, the whole debt, &c., may be recovered at once, with an att'ys commission of five per cent. Sept. 24, 1877, judgment.

Judgment Index.

146 Defendant—Todd, Wm. H.
Plaintiff—Jas. W. Cooper.

Court term—Nov. S., '79.
No. 40, D. S. B.
Date—Sept. 24, 1877.
Amount—$6,300.00.

Philad'a Co. costs:

Att'y & ent'g	4	12½
Cr. & sal		25
Record	2	00
	$6	37½

To William Nelson West, Esq., attorney of the court of common pleas of Philadelphia, in the county of Philadelphia, in the State of Pennsylvania, or to any other attorney of said court, or any other court, there or elsewhere:

Whereas I, William H. Todd, of the city of Philadelphia, gentleman, in and by a certain obligation bearing even date herewith, do stand bound unto James W. Cooper, of the said city, manufacturer, in the sum of six thousand three hundred dollars,
147 lawful money of the United States of America, conditioned for the payment of the just sum of three thousand one hundred and fifty dollars, lawful money as aforesaid, in five years from the date hereof, together with interest thereon, payable half yearly, at the rate of six per cent. per annum until *until* such time as a higher rate becomes lawful, and immediately thereafter at the highest rate, not exceeding — per cent. legally chargeable; together with all taxes and changes in nature thereof that may be laid or levied upon said obligation, or upon the accompanying indenture of mortgage, or the principal or interest moneys thereby secured, immediately upon the assessment: Provided, however, and it is hereby
148 expressly agreed, that if at any time default shall be made in payment of interest as aforesaid for the space of thirty days after any half yearly payment thereof shall fall due, or in payment of any tax or charge as aforesaid, for the space of thirty days, after notice in writing of its assessment shall be left upon the premises described in the accompanying indenture of mortgage, then and in such case the whole principal debt aforesaid shall, at the option of the said obligee, his executors, administrators or assigns, become due and payable immediately, and payment of said principal debt, and all interest thereon, may be enforced and recovered at once, anything therein contained to the contrary notwithstanding. And provided further, however, and it is thereby expressly
149 agreed, that if at any time thereafter, by reason of any default of payment, either of said principal sum of at maturity or of said interest, or of taxes and charges, within the time specified, a writ of *fieri facias* is properly issued upon the judgment obtained upon said obligation, or by virtue of this warrant or a writ of *scire facias* is properly issued upon the accompanying indenture of mortgage, an attorney's commission for collection, viz., five per cent., shall be payable, and shall be recovered in addition to all principal, in-

terest, and taxes then due, besides costs of suit. These are to desire and authorize you, or any of you, to appear for me, my heirs, executors, or administrators, in the said court or elsewhere, in
150 an action of debt there or elsewhere brought, or to be brought, against me, my heirs, executors, or administrators, at the suit of the said obligee, his executors, administrators, or assigns, and the said obligation, as of any term or time past, present, or any other subsequent term or time, there or elsewhere to be held, and confess judgment thereupon against me, my heirs, executors, or administrators, for the sum of six thousand three hundred dollars, lawful money of the United States of America, debt, besides costs of suits and an attorney's commission of five per cent. in case payment has to be enforced by process of law as aforesaid, by *non sum informatus, nihil decit,* or otherwise, as to you shall seem meet. And for you, or any of you so doing, this shall be your sufficient warrant. And I do hereby, for myself, my heirs, executors, and
151 administrators, remise, release, and forever quit-claim unto the said obligee, his certain attorney, executors, administrators, and assigns, all and all manner of error or errors, misprisions, misentries, defects, and imperfections whatever in the entering of the said judgment, or any process or proceedings thereon or thereto, or anywise touching or concerning the same.

In witness whereof, I have hereunto set my hand and seal, this eighteenth day of August, in the year of our Lord one thousand eight hundred and seventy-six (1876).

WM. H. TODD. [SEAL.]

Sealed and delivered in the presence of us.
JOHN F. CARTIN.
WM. R. NICHOLSON.

(Endorsed:) Filed Sept. 24, 1877.

152 THE COMMONWEALTH OF PENNSYLVANIA, } *ss:*
County of Philadelphia, }

I, William B. Mann, Esquire, prothonotary of the several courts of common pleas, numbers one, two, three, and four respectively, for the county of Philadelphia, do certify that the foregoing is a true copy of the whole record in the cause wherein James W. Cooper is plaintiff and William H. Todd is defendant, of September term, 1877, number 40, as full, entire, and complete, as the same remains on file in court of common pleas, No. one, for the county of Philadelphia, in the case there stated.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court, this 27th day of September, in the year of our Lord one thousand eight hundred and seventy-seven.

[SEAL.] WILLIAM B. MANN, *Prothonotary.*

153 COUNTY OF PHILADELPHIA, *ss:*

I, Joseph Allison, presiding judge of the court of common pleas No. one for the county of Philadelphia, do certify that the forego-

ing record and attestation, made by William B. Mann, Esquire, prothonotary of the said court, whose name is thereto subscribed and seal of office affixed, are in due form and made by proper officer.

In testimony whereof, I have hereunto set my hand, this 27th day of September, in the year of our Lord one thousand eight hundred and seventy-seven.

JOSEPH ALLISON.

COUNTY OF PHILADELPHIA, *ss:*

I, William B. Mann, Esquire, prothonotary of the several courts of common pleas, numbers one, two, three, and four respect-
154 ively, for the county of Philadelphia, do certify that the Honorable Joseph Allison, by whom the foregoing attestation was made, and whose name is thereto subscribed, was, at the time of making thereof, and still is, president judge of the court of common pleas No. one for the county of Philadelphia, duly commissioned and sworn, to all whose acts as such full faith and credit are and ought to be given, as well in courts of adjudicature as elsewhere.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said courts, this 27th day of September, in the year of our Lord one thousand eight hundred and seventy-seven.

[SEAL.] WILLIAM B. MANN, *Prothonotary.*

Know all men by these presents, that I, William H. Todd, of the city of Philadelphia, gentleman, (hereinafter called the ob-
155 ligor), and held and firmly bound unto James W. Cooper, of the said city, manufacturer, (hereinafter called the obligee), in the sum of six thousand three hundred dollars, lawful money of the United States of America, to be paid to the said obligee, his certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made, I do bind and oblige myself, my heirs, executors, and administrators, and every of them, firmly by these presents, sealed with my seal. Dated the eighteenth day of August, in the year of our Lord one thousand eight hundred and seventy-six (1876.)

The condition of this obligation is such, that if the above bounden obligor, his heirs, executors, or administrators, or any of them, shall and do well and truly pay, or cause to be paid, unto the
156 above-named obligee, his certain attorney, executor, or administrators or assigns, the just sum of three thousand one hundred and fifty dollars, lawful money as aforesaid, in five years from the date hereof, together with interest thereon, payable half yearly, at the rate of six per cent. per annum, until such time as a higher rate becomes lawful, and immediately thereafter at the higher rate, not exceeding seven per cent., legally chargeable; together with all taxes and charges in nature thereof that may be laid or levied upon this obligation, or upon the accompanying indenture of mortgage, or the principal or interest monies hereby secured, immediately upon their assessment without any fraud or further delay, then the above obligation to be void, or else to be and remain in
157 full force and virtue: Provided, however, and it is hereby expressly agreed, that if at any time default shall be made in

payment of interest, as aforesaid, for thirty days after any half-yearly payment thereof shall fall due, or in the payment of any tax or charge, as aforesaid, for the space of thirty days after notice in writing of its assessment shall be left upon the premises described in the accompanying indenture of mortgage, then and in such case the whole principal debt aforesaid shall, at the option of the said obligee, his executors, administrators, or assigns, become due and payable immediately, and payment of said principal debt and all interest thereon may be enforced and recovered at once, anything herein contained to the contrary notwithstanding.

158 And, provided further, however, that it is hereby expressly agreed that if at any time hereafter, by reason of any default in payment, either in said principal sum at maturity, or of said interest, or of taxes and charges within the time specified, a writ of *fieri facias* is properly issued upon the judgment obtained upon this obligation or by virtue of the warrant of attorney hereto attached, or a writ of *scire facias* is properly issued upon the accompanying indenture of mortgage, an attorney's commission for collection, viz., five per cent., shall be payable, and shall be recovered in addition to all principal, interest, and taxes then due, besides costs of suit.

WM. H. TODD. [SEAL.]

Sealed and delivered in the presence of us—
JOHN F. CARTIN.
WM. R. NICHOLSON.

159 Endorsed: Entered in the office of the clerk of the court of common pleas for the county of Philadelphia, this 24th day of Sept., 1877. James W. Fletcher, prothonotary.

EXHIBIT "G" TO ANSWER OF B. H. SMITH.

Judgment.

STATE OF ARKANSAS, *County of Chicot:*

The State of Arkansas.

At the January term, 1878, of the Chicot circuit court, on the 16th day of January, 1878, a day of said term of said court, among others the following proceedings were had, viz:

JAMES W. COOPER
v.
WM. H. TODD. } 1049.

160 Comes the plaintiff, by his attorney, and files his complaint, and also comes the defendant, Wm. H. Todd, as well in his own proper person as by attorney, and enters his appearance in this cause, and consenting that judgment shall be entered against him herein for the sum of six thousand three hundred dollars, with interest from the 24th day of September, 1877.

It is therefore considered, ordered, and adjudged by the court that the plaintiff, James W. Cooper, do have and recover of and from the

defendant, William H. Todd, the sum of six thousand three hundred dollars for his debt, and the further sum of one hundred and seventeen dollars and sixty cents for his damages, making in all the sum of $6,417\frac{60}{100}$, besides his costs herein expended, and that he have execution therefor.

161 To the sheriff of Chicot county:

You are commanded that of the estate of Wm. H. Todd you cause to be made the sum of six thousand three hundred dollars debt, and one hundred and seventeen & $\frac{60}{100}$ dollars damages, which James W. Cooper late in our circuit court recovered against Wm. H. Todd, with interest at the rate of 6 per centum from the 16th day of January, 1878, until paid; also the sum of $—— dollars, which was adjudged to the said James W. Cooper for costs in that suit expended, and that you have said sums of money within sixty days to render to the said James W. Cooper debt, damages, interest, and costs aforesaid.

In testimony whereof, I have hereto set my hand and official seal, at my office, in the town of Lake Village, this 8th day of April, A. D. 1878.

[SEAL.] H. N. GRAVES, *Clerk*,
By GEO. T. WILKINSON, *D. C.*

162 Endorsed.

Debt	$6,300 00
Damages	117 60
Int. 6 per cent. from Jan. 26, '78	
Costs, cl'k taxes, &c.	2 10

To sheriff of Chicot Co. Returnable in 60 days from April 8th, '78. Judgment Jan'y term, '78. Ct. Ct. Rec. H, page 292.

I have, in pursuance of the within execution, levied upon all the right, title, and interest of Wm. H. Todd in and to the following-described lands, situate in Chicot county, to wit: All sec. (12) twelve, W. $\frac{1}{2}$ sec. eleven (11), und. $\frac{1}{2}$ S. $\frac{1}{2}$ sec. (11) eleven, sec. (14) fourteen, S. E. part N. E. $\frac{1}{4}$ sec. (10) ten, sec. twenty-three (23), S. W. $\frac{1}{4}$ section thirteen (13), E. $\frac{1}{2}$ N. W. $\frac{1}{4}$ sec. twenty-four (24), E. $\frac{1}{2}$ N. E. section twenty-two (22), E. $\frac{1}{2}$ S. E. $\frac{1}{4}$ sec. 15, N. $\frac{1}{2}$ and S. E. $\frac{1}{4}$ sec. 13, S. $\frac{1}{2}$ sec. 22, S. E. $\frac{1}{4}$ sec. 21, S. W. $\frac{1}{4}$ sec. 15, W. $\frac{1}{2}$ S. E. $\frac{1}{4}$ sec. 15, sec. 27, N. $\frac{1}{2}$ & S. W. $\frac{1}{4}$ sec. 26, N. E. $\frac{1}{4}$ sec. 17, S. W. $\frac{1}{4}$ sec. 9, S. E. $\frac{1}{4}$ sec. 10, all in town. 15 S., R. 2 west, and S. $\frac{1}{2}$ S. $\frac{1}{2}$ sec. 4, S. diagonal $\frac{1}{2}$ of
163 N. $\frac{1}{2}$ of S. $\frac{1}{2}$ sec. 4, all section five (5), E. $\frac{1}{2}$ and S. W. $\frac{1}{4}$ of section (6) six, S. $\frac{1}{2}$ N. W. $\frac{1}{4}$ sec. (6), all section seven (7), W. $\frac{1}{2}$ and W. $\frac{1}{2}$ S. E. $\frac{1}{4}$ section eight (8), and N. E. $\frac{1}{4}$ section eighteen (18), in township 15 S., R. 1 west, and advertised the same to be sold on Monday, the 27th day of May, 1878.

And I further return that on said 27th day of May, 1878, I offered said lands for sale, and that at said said sale Jas. F. Robinson, being the highest bidder for, became the purchaser of the interest of said Wm. H. Todd in and to the below-mentioned parts of said lands, to

wit: Section five (5), S. fr'l ½ of Sec. (4) four, E. ½ & S. W. ¼ of section (6) six, all section seven (7), W. ½ of section eight (8), W. ½ of S. E. ¼ section eight (8), in township 15 S., range 1 west, and W. ½ of section twelve (12), W. ½ of E. ½ of section twelve (12), W. ½ & S. E. ¼ of section eleven (11), S. E. part of N. E. ¼ section ten (10), S. E. ¼ Sec. (10) ten, all section thirteen (13), all section fourteen (14),
164 S. ½ Sec. (15) fifteen, S. E. ¼ section twenty-one (21), E. ½ N. E. ¼ section (22) twenty-two, S. ½ Sec. (22) twenty-two, all section twenty-three (23), E. ½ N. W. ¼ section twenty-four (24), N. ½ and S. W. ¼ section twenty-six (26), all section twenty-seven, N. E. ¼ section seventeen (17), S. W. ¼ Sec. (9) nine, in township 15 S., range two west, for the total price and sum of fifty-three $\frac{75}{100}$ dollars ($53\frac{75}{100}$), and the said Jas. F. Robinson has this day given his bond for said purchase-money.

And I further return that at said sale B. H. Smith was the highest bidder for, and became the purchaser of, the interest of said Todd in and to the following parcels of said lands, to wit: N. E. ¼ of section eighteen (18), township 15 S., range one west, and E. ½ of E. ½ of section twelve, township 15 S., R. 2 west, for the total price and sum of seven & $\frac{50}{100}$ dollars ($7\frac{50}{100}$), and has given his bond for
165 said purchase-money, and this execution is hereby so returned.

And I further return no other property of the defendant found in my county.

S. H. HOLLAND, *Sheriff.*

Certificate of Purchase.

JAMES H. COOPER
vs.
WILLIAM H. TODD. } Execution.

I, S. H. Holland, sheriff of Chicot county, Arkansas, do hereby certify that on the 8th day of April, 1878, there was issued, and to me directed and delivered, by the clerk of the Chicot circuit court, a certain execution in favor of James W. Cooper and against Wm. H. Todd, and that by virtue and authority of said execution I did, on the 9th day of April, 1878, levy upon certain lands situate in said Chicot county, as is shown by the return on said execution, and that on the 27th day of May, 1878, after having duly adver-
166 tised said lands according to law, I did offer the same for sale, at the time, place, and on the terms mentioned and set forth in said advertisement, and that at said sale James F. Robinson was the highest bidder for, and became the purchaser of, the right, title, and interest of said Wm. H. Todd in and to the following described tracts or parcels of said lands for the respective prices set opposite each, to wit:

Ne ¼ of ne ¼	section 5,	town. 15 S.,	R. 1	west	----------	1 00
Nw ¼ of ne ¼	"	"	"	"	----------	50
Sw ¼ ne ¼	"	"	"	"	----------	50
Se ¼ ne ¼	"	"	"	"	----------	50
Ne ¼ nw ¼	"	"	"	"	----------	50

Nw ¼ nw ¼	section	5,	town.	15 S.,	R. 1 west	25
Sw ¼ nw ¼	"	"	"	"	"	50
Se ¼ nw ¼	"	"	"	"	"	25
Ne ¼ sw ¼	"	"	"	"	"	25
Nw ¼ sw ¼	"	"	"	"	"	25
Sw ¼ sw ¼	"	"	"	"	"	25
Se ¼ sw ¼	"	"	"	"	"	25
Ne ¼ se ¼	"	"	"	"	"	25
Nw ¼ se ¼	"	"	"	"	"	25
167 Sw ¼ se ¼	"	"	"	"	"	25
Se ¼ se ¼	"	"	"	"	"	25
S diag'l ½ n ½ se ¼,	section	4,	town.	15 S.,	R. 1 west	50
Ne ¼ sw fr'l ¼	section	4,	town.	15 S.,	R. 1 west	25
Nw ¼ sw fr'l ¼	"	"	"	"	"	50
Sw ¼ sw ¼	"	"	"	"	"	25
Se ¼ sw ¼	"	"	"	"	"	25
Sw ¼ se ¼ (fr'l)	"	"	"	"	"	25
Se ¼ se fr'l ¼	"	"	"	"	"	25
Ne ¼ ne ¼	"	6,	"	"	"	25
Nw ¼ ne ¼	"	"	"	"	"	25
Sw ¼ ne ¼	"	"	"	"	"	25
Se ¼ ne ¼	"	"	"	"	"	25
Ne ¼ se ¼	"	"	"	"	"	25
Nw ¼ se ¼	"	"	"	"	"	25
Sw ¼ se ¼	"	"	"	"	"	25
Se ¼ se ¼	"	"	"	"	"	25
Se ¼ nw ¼	"	"	"	"	"	25
Sw ¼ nw ¼	"	"	"	"	"	25
Ne ¼ sw ¼	"	"	"	"	"	25
Nw ¼ sw ¼	"	"	"	"	"	25
Sw ¼ sw ¼	"	"	"	"	"	25
Se ¼ sw ¼	"	"	"	"	"	25
Ne ¼ ne ¼	"	7,	"	"	"	25
Nw ¼ ne ¼	"	"	"	"	"	25
SW ¼ ne ¼	"	"	"	"	"	25
Se ¼ ne ¼	"	"	"	"	"	25
Ne ¼ nw ¼	"	"	"	"	"	25
168 Nw ¼ nw ¼	"	"	"	"	"	25
Sw ¼ nw ¼	"	"	"	"	"	25
Se ¼ nw ¼	"	"	"	"	"	25
Ne ¼ se ¼	"	"	"	"	"	25
Nw ¼ se ¼	"	"	"	"	"	25
Sw ¼ se ¼	"	"	"	"	"	25
Se ¼ se ¼	"	"	"	"	"	25
Ne ¼ sw ¼	"	"	"	"	"	25
Nw ¼ sw ¼	"	"	"	"	"	25
Sw ¼ sw ¼	"	"	"	"	"	25
Se ¼ sw ¼	"	"	"	"	"	25
Ne ¼ nw ¼	"	8,	"	"	"	25
Nw ¼ nw ¼	"	"	"	"	"	25
Sw ¼ nw ¼	"	"	"	"	"	25

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	Se ¼ nw ¼	section	4,	town. 15 S.,	R. 1 west	25
	Nw ¼ se ¼	"		"	" "	25
	Sw ¼ se ¼	"		"	" "	25
	Ne ¼ sw ¼	"		"	" "	25
	Nw ¼ sw ¼	"		"	" "	25
	Sw ¼ sw ¼	"		"	" "	25
	Se ¼ sw ¼	"		"	" "	25
	Nw ¼ ne ¼	"	12,	"	" 2 "	75
	Sw ¼ ne ¼	"		"	" "	50
	Ne ¼ nw ¼	"		"	" "	25
	Nw ¼ nw ¼	"		"	" "	25
	Sw ¼ nw ¼	"		"	" "	25
	Se ¼ nw ¼	"		"	" "	25
	Nw ¼ se¼	"		"	" "	25
169	Sw ¼ se ¼	"		"	" "	25
	Ne ¼ sw ¼	"		"	" "	25
	Nw ¼ sw ¼	"		"	" "	25
	Sw ¼ sw ¼	"		"	" "	25
	Se ¼ sw ¼	"		"	" "	25
	Ne ¼ sw ¼	"	11,	"	" "	25
	Nw ¼ sw ¼	"		"	" "	25
	Sw ¼ sw ¼	"		"	" "	25
	Se ¼ sw ¼	"		"	" "	25
	Ne ¼ nw ¼	"		"	" "	25
	Nw ¼ nw ¼	"		"	" "	25
	Sw ¼ nw ¼	"		"	" "	25
	Se ¼ nw ¼	"		"	" "	25
	Nw ¼ sw ¼	"		"	" "	25
	Ne ¼ sw ¼	"		"	" "	25
	Sw ¼ sw ¼	"		"	" "	25
	Se ¼ sw ¼	"		"	" "	25
	Ne ¼ ne ¼	"	10,	"	" "	25
	Se ¼ ne ¼	"		"	" "	25
	Sw ¼ ne ¼	"		"	" "	25
	Ne ¼ se ¼	"		"	" "	25
	Nw ¼ se ¼	"		"	" "	25
	Sw ¼ se ¼	"		"	" "	25
	Se ¼ se ¼	"		"	" "	25
	Ne ¼ ne ¼	"	13,	"	" "	25
	Nw ¼ ne ¼	"		"	" "	25
	Sw ¼ ne ¼	"		"	" "	25
	Se ¼ ne ¼	"		"	" "	25
170	Ne ¼ nw ¼	"		"	" "	25
	Nw ¼ nw ¼	"		"	" "	25
	Sw ¼ nw ¼	"		"	" "	25
	Se ¼ nw ¼	"		"	" "	25
	Ne ¼ se ¼	"		"	" "	25
	Nw ¼ se ¼	"		"	" "	25
	Sw ¼ se ¼	"		"	" "	25
	Se ¼ se ¼	"		"	" "	25
	Ne ¼ sw ¼	"		"	" "	25

	Nw ¼ sw ¼	section	4,	town. 15	S., R. 1	west	25
	Sw ¼ sw ¼	"		"	"	"	25
	Se ¼ sw ¼	"		"	"	"	25
	Ne ¼ ne ¼	"	14,	"	"	"	25
	Nw ¼ ne ¼	"		"	"	"	25
	Sw ¼ ne ¼	"		"	"	"	25
	Se ¼ ne ¼	"		"	"	"	25
	Ne ¼ nw ¼	"		"	"	"	25
	Nw ¼ nw ¼	"		"	"	"	25
	Sw ¼ nw ¼	"		"	"	"	25
	Se ¼ nw ¼	"		"	"	"	25
	Ne ¼ se ¼	"		"	"	"	25
	Nw ¼ se ¼	"		"	"	"	25
	Sw ¼ se ¼	"		"	"	"	25
	Se ¼ se ¼	"		"	"	"	25
	Ne ¼ sw ¼	"		"	"	"	25
	Nw ¼ sw ¼	"		"	"	"	25
	Sw ¼ sw ¼	"		"	"	"	25
	Se ¼ sw ¼	"		"	"	"	25
171	Ne ¼ ne ¼	"		"	"	"	25
	Nw ¼ ne ¼	"		"	"	"	25
	Sw ¼ ne ¼	"		"	"	"	25
	Se ¼ ne ¼	"		"	"	"	25
	Ne ¼ nw ¼	"		"	"	"	25
	Nw ¼ nw ¼	"		"	"	"	25
	Sw ¼ nw ¼	"		"	"	"	25
	Se ¼ nw ¼	"		"	"	"	25
	Ne ¼ se ¼	"		"	"	"	25
	Nw ¼ se ¼	"		"	"	"	25
	Sw ¼ se ¼	"		"	"	"	25
	Se ¼ se ¼	"		"	"	"	25
	Ne ¼ sw ¼	"		"	"	"	25
	Nw ¼ sw ¼	"		"	"	"	25
	Sw ¼ sw ¼	"		"	"	"	25
	Se ¼ sw ¼	"		"	"	"	25
	Ne ¼ nw ¼	"	24,	"	"	"	25
	Se ¼ nw ¼	"		"	"	"	25
	Ne ¼ ne ¼	"	22,	"	"	"	25
	Se ¼ ne ¼	"		"	"	"	25
	Ne ¼ se ¼	"		"	"	"	25
	Nw ¼ se ¼	"		"	"	"	25
	Sw ¼ se ¼	"		"	"	"	25
	Se ¼ se ¼	"		"	"	"	25
	Ne ¼ sw ¼	"		"	"	"	25
	Nw ¼ sw ¼	"		"	"	"	25
	Sw ¼ sw ¼	"		"	"	"	25
	Se ¼ sw ¼	"		"	"	"	25
172	Ne ¼ se ¼	"	15,	"	"	"	25
	Nw ¼ se ¼	"		"	"	"	25
	Sw ¼ se ¼	"		"	"	"	25
	Se ¼ se ¼	"		"	2	"	25

Ne ¼ sw ¼	section	4,	town.	15 S.,	R. 1	west 25
Nw ¼ sw ¼	"		"	"	"	 25
Sw ¼ sw ¼	"		"	"	"	 25
Se ¼ sw ¼	"		"	"	"	 25
Ne ¼ se ¼	"	21,	"	"	"	 25
Nw ¼ se ¼	"		"	"	"	 25
Sw ¼ se ¼	"		"	"	"	 25
Se ¼ se ¼	"		"	"	"	 25
Ne ¼ ne ¼	"	27,	"	"	"	 25
Nw ¼ ne ¼	"		"	"	"	 25
Sw ¼ ne ¼	"		"	"	"	 25
Se ¼ ne ¼	"		"	"	"	 25
Ne ¼ nw ¼	"		"	"	"	 25
Nw ¼ nw ¼	"		"	"	"	 25
Sw ¼ nw ¼	"		"	"	"	 25
Se ¼ nw ¼	"		"	"	"	 25
Ne ¼ se ¼	"		"	"	"	 25
Nw ¼ se ¼	"		"	"	"	 25
Sw ¼ se ¼	"		"	"	"	 25
Se ¼ se ¼	"		"	"	"	 25
Ne ¼ sw ¼	"		"	"	"	 25
Nw ¼ sw ¼	"		"	"	"	 25
Sw ¼ sw ¼	"		"	"	"	 25
Se ¼ sw ¼	"		"	"	"	 25
173 Ne ¼ ne ¼	"		"	"	"	 25
Nw ¼ ne ¼	"		"	"	"	 25
Sw ¼ ne ¼	"		"	"	"	 25
Se ¼ ne ¼	"		"	"	"	 25
Ne ¼ nw ¼	"		"	"	"	 25
Nw ¼ nw ¼	"		"	"	"	 25
Sw ¼ nw ¼	"		"	"	"	 25
Se ¼ nw ¼	"		"	"	"	 25
Ne ¼ sw ¼	"		"	"	"	 25
Nw ¼ sw ¼	"		"	"	"	 25
Sw ¼ sw ¼	"		"	"	"	 25
Se ¼ sw ¼	"		"	"	"	 25
Ne ¼ ne ¼	"	17,	"	"	"	 25
Se ¼ ne ¼	"		"	"	"	 25
Nw ¼ ne ¼	"		"	"	"	 25
Sw ¼ ne ¼	"		"	"	"	 25
Ne ¼ sw ¼	"	9,	"	"	"	 25
Nw ¼ sw ¼	"		"	"	"	 25
Sw ¼ sw ¼	"		"	"	"	 25
Se ¼ sw ¼	"		"	"	"	 25
						$53 75

Being a total price and sum of fifty-three $\frac{75}{100}$ dollars, for which said purchase money the said James F. Robinson has given his bond, and I do hereby so certify.

174 Given under my hand as such sheriff aforesaid, this 27th day of May, 1878.

S. H. HOLLAND, *Sheriff.*

In condition of the sum of three hundred and eighty-one $\frac{25}{100}$ dollars to me in hand paid by Benjamin H. Smith, I do hereby bargain, sell, and assign to said Smith the annexed within and foregoing certificate of purchase, together with all my right, title, interest, claim, and property in and to the lands described and set out in said certificate of purchase.

Witness my hand, this Nov. 2, 1878.

JAMES F. ROBINSON.

Certificate of Purchase.

JAMES W. COOPER *vs.* WILLIAM H. TODD. } Execution.

I, S. H. Holland, sheriff of Chicot county, Arkansas, do hereby certify that on the 8th day of April, 1878, there was issued, and to me directed and delivered by the clerk of the Chicot circuit
175 court, a certain execution in favor of James W. Cooper and against Wm. H. Tood, and that by virtue and authority of said execution I did, on the 9th day of April, 1878, levy upon certain lands situate in said Chicot county, as is shown by the return on said execution; and that, on the 27th day of May, 1878, after having duly advertised said lands according to law, I did offer the same for sale at the time, place, and on the terms mentioned and set forth in said advertisement; and that at said sale Benj. H. Smith was the highest bidder for and became the purchaser of the right, title, and interest of said Wm. H. Todd in and to the following-described tracts or parcels of said lands, for the respective prices set opposite each, to wit:

Ne ¼ ne ¼ section 18, town 15 S., R. 1 W.					2 00
Nw ¼ ne ¼	"	"	"		50
Sw ¼ ne ¼	"	"	"		50
Se ¼ ne ¼	"	"	"		50
Ne ¼ ne ¼ section 12, town 15 S., R. 2 W.					1 00
176 Se ¼ ne ¼	"	"	"		1 00
Ne ¼ se ¼	"	"	"		1 00
Se ¼ se ¼	"	"	"		1 00

being the total price and sum of seven $\frac{50}{100}$ dollars ($7.50,) and that said B. H. Smith has this day given his bond for said purchase money; and I do hereby so certify.

S. H. HOLLAND, *Sheriff.*

EXHIBIT "H," to Answer of Ben. H. Smith.

Deed. S. H. Holland, Sheriff, to B. H. Smith.

STATE OF ARKANSAS, *County of Chicot:*

S. H. Holland, as sheriff of Chicot county, to all to whom these presents shall come:

Whereas, on the 8th day of April, 1878, there was issued from the clerk of the Chicot circuit court for Chicot county, signed by
177 the clerk and attested by the seal of said court, a certain writ of execution in the name of the State of Arkansas, and to me as such sheriff directed, and which came to my hands on the 8th day of April, 1878, the recitals of which writ of execution are as follows, to wit:

The State of Arkansas to the sheriff of Chicot county, Greeting:

You are commanded that of the estate of Wm. H. Todd you cause to be made the sum of $6,417.60, which James W. Cooper, late in our circuit court, recovered against said Wm. H. Todd for $6,417.60, with interest thereon from the 16th day of January, 1878, until paid; also the sum of —— dollars, which was adjudged to said James W. Cooper for costs in that suit expended, and that you have said sums of money within sixty days to render to the said James W. Cooper, debt, damages, interest, and costs aforesaid; and
178 in obedience to the commands of said writ, and in order that the same might be executed and satisfied, I did afterwards, to wit, on the 9th day of April, A. D. 1878, in said county, proceed by then and there levying upon and seizing the following-described property as the property of said Wm. H. Todd, to wit: All section twelve; west half sec. 11; undivided half of the south half of section 11; all sec. 14; S. E. part of N. E. ¼ sec. 10; all sec. 23; S. W. ¼ sec. 13; E. ½ N. W. ¼ sec. 24; E. ½ N. E. ¼ sec. 22; E. ½ S. E. ¼ sec. 15; N. ½ & S. E. ¼ sec. 13; S. ½ sec. 22; S. E. ¼ sec. 21; S. W. ¼ sec. 15; W. ½ S. E. ¼ sec. 15; all sec. 27; N. ½ and S. W. ¼ sec. 26; N. E. ¼ sec. 17; S. W. ¼ sec. 9; S. E. ¼ sec. 10, all in township 15 S., range 2 west; and S. ½ S. ½ sec. 4; S. diagonal half of N. ½ of S. ½ sec. 4; all sec. 5; E. ½ and S. W. ¼ and S. ½ of N. W. ¼ sec. 6; all sec. 7; W. ½ and W. ½ S. E. ¼ sec. 8, and N. E. ¼ sec. 18, Town. 15 S., R. 1 west; and whereas, afterwards, to wit, on the 20th day of April, 1878,
179 I advertised the said tracts and parcels of land for sale, according to law, for twenty days, by an advertisement inserted and published by two insertions, before the day of sale in the Arkansas City Post, a weekly newspaper published and printed in the county of Chicot, and by posting printed advertisements at the court-house door of said county, and five other public places in said county, (one being upon the premises to be sold,) to be sold at the door of the court-house of said county of Chicot on Monday, the 27th day of May, 1878, at which time and place I attended, and, between the hours prescribed by law for judicial sales of said day, I offered and cried the said tracts and parcels of land for sale in separate tracts and parcels to the highest bidder; and James

F. Robinson, being the highest and last bidder, became the
180 purchaser of the following tracts and parcels of land, being a part of the tracts and parcels of land seized and levied upon as before mentioned, to wit: All sec. 5 S. diagonal ½ of N. ½ of S. E. ¼ sec. 4; S. W. ¼ sec. 4; S. ½. S. E. ¼ sec. 4; E. ½ sec. 6; S. ½ N.W. ¼ sec. 6; S. W. ¼ sec. 6; all sec. 7; W. ½ sec. 8; W. ½ S. E. ¼ sec. 8, all in town. 15 S., range 1 W.; and W. ½ sec. 12; W. ½ of E. ½ sec. 12; S. E. ¼ sec. 11; W. ½ sec. 11; E. ½ N. E. ¼ sec. 10; S. W. ¼ of N. E. ¼, and S. E. ¼ sec. 10; all sec. 13; all sec. 14; all sec. 23; E. ½ N. W. ¼ sec. 24; E. ½ N. E. ¼ and S. ½ sec. 22; S. ½ sec. 15; S. E. ¼ sec. 21; all sec. 27; N. ½ sec. 26; S.W. ¼ sec. 26; N. E. ¼ sec. 17, and S.W. ¼ sec. 9, town. 15 S., R. 2 west, at and for the aggregate sum of fifty-three and $\frac{75}{100}$ dollars, which was the greatest amount then and there bid for the same; and whereas, at the time of said sale, I made and executed to the said purchaser, James F.
181 Robinson, a certificate of purchase as prescribed by law; and whereas the full period of twelve months has elapsed since the sale of said tracts and parcels of land, as aforesaid, yet the said Wm. H. Todd hath not redeemed the same as prescribed by law, nor any judgment creditor of the said Wm. H. Tood, nor either of them; and whereas the said James F. Robinson has assigned all his right, title, and interest in and to said lands to Benjamin F. Smith, as shown by endorsement on said certificate of purchase. Now, therefore, know ye, that I, the said S. H. Holland, in my capacity as sheriff, in consideration of the sum of fifty-three and $\frac{75}{100}$ dollars aforesaid to me in hand paid by the said James F. Robinson, and of the transfer of said interest in said lands so sold by said James F. Robinson to said Benjamin F. Smith, the receipt of which
182 moneys is hereby acknowledged, have bargained, sold, and conveyed, and by these presents do bargain, sell, alien, and convey to the said Benjamin H. Smith all the right, title, interest, and claim which the said Wm. H. Todd had at the time of the rendition of the said judgment, issue of the said execution, or at any time thereafter, to the last mentioned and described tracts and parcels of land. To have and to hold the same to him, the said Benjamin H. Smith, his heirs, executors, administrators, and assigns, to their only use, benefit, and behoof forever.

And I, the said Samuel H. Holland, as such sheriff, do covenant with the said Benjamin H. Smith as aforesaid, that in levying the said execution, and in everything the same concerning, I have complied with, observed, and obeyed all the rules and regulations in law for executions, making sales, and conveying the same so
183 far as the office of sheriff and the execution under which I sold authorized me to do.

In testimony whereof I have hereunto set my hand, this 7th day of June, 1879.

S. H. HOLLAND, *Sheriff.*

STATE OF ARKANSAS, *County of Chicot:*

On this 29th day of December, 1879, before me, Geo. T. Wilkinson, clerk of the circuit court in and for the county and State aforesaid,

appeared in person Samuel H. Holland, as sheriff of said county, to me personally well known as the person whose name appears upon the within and foregoing deed of conveyance as the party grantor, and acknowledged that he had executed the same, in his capacity as sheriff of said county, for the uses, purposes, and considerations therein mentioned and set forth, and I do hereby so certify.

184 Witness my hand and the seal of said court hereto affixed, this day and date above written.

[SEAL.] GEO. T. WILKINSON, *Clerk.*

Filed for record December 29, 1879.
Recorded January 8, 1880.

GEO. T. WILKINSON, *Clerk.*
By W. W. WILKINSON, *D. C.*

EXHIBIT "K" TO ANSWER OF BENJAMIN H. SMITH.

Deed. S. H. Holland, as Sheriff, to Benj. H. Smith.

STATE OF ARKANSAS, } ss:
County of Chicot, }

S. H. Holland, as sheriff of said county, to all whom these presents shall come, Greeting:

185 Whereas on the 8th day of April, 1878, there was issued from the clerk of the circuit court for Chicot county, signed by the clerk, and attested by the seal of said court, a certain writ of execution in the name of the State of Arkansas, and to me as such sheriff directed, and which came to my hands on the 8th day of April, 1878, the recitals of which writ of execution are as follows, to wit:

The State of Arkansas to the sheriff of Chicot county, Greeting:

You are hereby commanded that of the estate of Wm. H. Todd you cause to be made the sum of $6,417.60 *dollars,* which James W. Cooper, late in our circuit court, recovered against him, the said Wm. H. Todd, for $6,417 60-100 dollars, with interest thereon from the 16th day of January, 1878, until paid; also the sum of

186 ——— dollars, which was adjudged to the said James W. Cooper for costs in that suit expended, and that you have said sums of money within sixty days to render to the said James W. Cooper, debt, interest, and costs aforesaid."

And in obedience to the commands of said writ, and in order that the same might be executed and satisfied, I did afterwards, to wit, on the 9th day of April, A. D. 1878, in said county, by then and there levying upon and seizing the following-described property as the property of said Wm. H. Todd, to wit: All sec. 12, W. ½ sec. 11, und. ½ S. ½ sec. 11, all sec. 14, S. E. pt. N. E. ¼ sec. 10, all sec. 23, S. W. ¼ sec. 13, E. ½ N. W. ¼ sec. 24, E. ½ N. E. ¼ sec. 22, E. ½ S. E. ¼ sec. 15, N. ½ and S. E. ¼ sec. 13, S. ½ sec. 22, S. E. ¼ sec. 21, S. W. ¼ sec. 15, S. E. ¼ sec. 15, all sec. 27, N. ½ and S. W. ¼ sec. 26, N. E. ¼ sec. 17, S. W. ¼ sec. 9, S. E. ¼ sec. 10, all in town. 15 S., R. 2 west, and S. ½ S. ½ sec. 4, S. diag. ½ of N. ½ of S. ½ sec. 4, all sec. 5,

187 E. ½ and S. W. ¼ and S. ½ N. W. ¼ sec. 6, all sec. 7, W. ½ and W. ½ S. E. ¼ sec. 8, and all N. E. ¼ sec. 18, town. 15 S., R. 1 west; and whereas afterwards, to wit, on the 20th day of April, 1878, I advertised the said tracts and parcels of land for sale according to law, for twenty days, &c., by an advertisement inserted and published by two insertions before the day of sale, in the Arkansas City Post, a weekly newspaper published and printed in the county of Chicot, and by posting printed advertisements at the court-house door of said county, and five other public places in said county, one being upon the premises to be sold, to be sold at the court-house door of said county of Chicot, on Monday, the 27th day of May, 1878, at which time and place I attended, and between the
188 hours prescribed by law for judicial sales of said day I offered and cried the said tracts and parcels of land for sale, in separate tracts and parcels, to the highest bidder; and Benjamin H. Smith, being the highest and last bidder, became the purchaser of the following tracts and parcels of land (being a part of the tracts and parcels of land seized and levied upon as before mentioned), to wit: N. E. ¼ sec. 18, town. 15 S., R. 1 west; E. ½ N. E. ¼ sec. 12, E. ½ S. E. ¼ sec. 12, all in town. 15 S., R. 2 west, at and for the aggregate sum and price of seven 50-100 dollars, which was the greatest amount then and there bid for the same.

And whereas at the time of said sale I made and executed to the said purchaser, Benjamin H. Smith, a certificate, as prescribed by law; and

Whereas the full period of twelve months has elapsed
189 since the sale of said tracts and parcels of land, as aforesaid, yet the said William H. Todd, nor any judgment creditor of the said Wm. H. Todd, hath not redeemed the said tracts or parcels of land, as prescribed by law, or either of them:

Now, therefore, know ye that I, the said S. H. Holland, in my capacity as sheriff, in consideration of the sum of seven $\frac{50}{100}$ dollars, aforesaid, to me in hand paid by the said Benjamin H. Smith, the receipt whereof is hereby acknowledged, have bargained, sold, and conveyed, and by these presents do bargain, sell, alien, and convey, to the said Benjamin H. Smith all the right, title, and interest, and claim which the said Wm. H. Todd had at the rendition of the said judgment, issue of the said execution, or at any time thereafter,
190 to the last mentioned and described tracts and parcels of land: To have and to hold the same to him, the said Benjamin H. Smith, his heirs, executors, administrators, and assigns, to their only use, benefit, and behoof, forever.

And I, the said S. H. Holland, as such sheriff, do covenant with the said Benj. H. Smith, as aforesaid, that in levying the said execution, and in everything the same concerning, I have complied with, observed, and obeyed all the rules and regulations in law for executions, making sales, and conveying the same, so far as the office of sheriff and the execution under which I sold authorized me to do.

In testimony whereof, I have hereunto set my hand, this 7th day of June, A. D. 1879.

S. H. HOLLAND,
Sheriff of Chicot County, Arkansas.

191 STATE OF ARKANSAS, *County of Chicot:*

On this 29th day of December, 1879, before me, Geo. T. Wilkinson, clerk of the circuit court in and for the county and State aforesaid, appeared in person Samuel H. Holland as sheriff of said county, to me personally well known as the person whose name appears upon the within and foregoing deed of conveyance as the party grantor, and acknowledged that he had executed the same in his capacity as sheriff of said county for the uses, purposes, and considerations therein mentioned and set forth, and I do hereby so certify.

Witness my hand and the seal of said court hereto affixed, this day and date above written.

[SEAL.] GEO. T. WILKINSON, *Clerk.*

192 Filed for record 29th December, 1879.
Recorded April 1, 1880.

GEO. T. WILKINSON, *Clerk,*
By W. W. WILKINSON, *D. C.*

STATE OF ARKANSAS, *County of Chicot:*

I, Geo. T. Wilkinson, clerk of the circuit court and *ex-officio* recorder in and for the county and State aforesaid, do hereby certify that the foregoing 37 pages contain a true and correct copy of all the proceedings had in the cause therein mentioned, and also the execution issued upon judgment in said cause, and the certificates of purchases and deeds executed by the sheriff thereunder, as the same appear of file recorded in my office.

193 Witness my hand and the seal of said court hereto affixed, this 18th day of November, 1880.

GEO. T. WILKINSON, *Clerk,*
By W. W. WILKINSON, *D. C.*

Endorsed: Filed March 22, 1880. Ralph L. Goodrich, clerk.

194 EXHIBIT "L" TO SEPARATE ANSWER OF BEN. H. SMITH.

STATE OF ARKANSAS:

Chicot Circuit Court. In Chancery.

Pleas before the Hon. Theodric F. Sorrells, chancellor and sole judge of said court, on the 23d day of January, 1880.

Be it remembered that in vacation of the Chicot circuit court, in chancery, on the 16th day of March, 1866, the following proceedings were had, to wit:

In the Chicot Circuit Court. In Chancery. In vacation, March 16, 1866.

CREDITORS OF JUNIUS W. CRAIG
vs.
EMMA J. WRIGHT *et al.* } 82.

This day came the complainants, by their solicitors, and file here their bill of complaint, the object of which is to marshal the assets of said Junius W. Craig, deceased, and to subject the same to the payment of their debts; and having filed also herein their affi-
davit that a portion of said defendants, to wit, Emma
195 J. Wright, William P. Halliday, Silas Price, Malisa P. Craig, Robert W. Craig, Cyrene Gip, Sarah McCaslan, and —— McCaslan, her husband; Elizabeth Schaeffer, and her husband, —— Schaeffer; Jane Brown, James Brown, John M. Price, Florida Price, Cyrene Lathrop, Hamilton Lathrop, Willie Lathrop, Anderson O. Neale, Walton Craig, Albert G. Craig, Benjamin F. Craig, Elizabeth Brooking, Edward Brooking, Thomas H. Whitehead, James H. Whitehead, Polly Ann Ingles, Charles Ingles, Benjamin O. Neale, Mary E. Craig, John S. Craig, H. S. Kennedy, William Z. Allen, E. Kate Allen, William D. Ferguson, Alexander C. Ferguson, Charles McKinney, Mary Ann McKinney, Tallieferro S. Craig, Martha Davis, Benjamin Davis, John O'Neal, Nancy McCann, James O'Neal, William O'Neal, Mary T. Mason, Bertrand Bledsoe, Elizabeth Beard, Thomas S. Beard, Sarah Van Hook, John H. Van Hook, Caroline Bledsoe, Dora Brown, Samuel Brown, Annie Bledsoe, the infant child of Enoch Bledsoe, deceased; Purnelia Choate, Nancy Flinn, Robert Flinn, Elizabeth Flinn, Lydia Montgomery, Watts Bledsoe, Nancy F. Patterson, Malcom Patterson, Martha Monroe, Thomas Monroe, Lucy Ann
196 Bailey's unknown heirs, George W. Craig, Sarah E. Craig, Gazelle D. Roberts, Joseph R. Roberts, Edward Eggleston, George Eggleston, Lowry C. Eggleston, William J. Eggleston, George C. Patton, Nancy F. Mendenhall, Miles Mendenhall, Tabatha O'Kyle, George H. Kyle, Eliza Wright, Thomas F. Wright, Alice Craig, DeKalb Craig, Albert G. Hanks, Olive Hanks, Ann S. Hanks, Mildred Hands, Graves Hanks, Georgeana Bledsoe, Daniel Bledsoe, Samuel Craig, Isaiah Craig, Silas Craig, William Craig, Sarah P. Russell, Robert Russell, Dorcas D. Hanks, Milton Hanks, infant child of Miles M. Hicks; John F. McCann, John Hicks, Samuel Hicks, Bruce Hicks, Joseph Craig, Susan Craig, Jordan J. Peak, Leland W. Peak, Dudley P. Peak, and Lucinda Craig, are non-residents of the State of Arkansas:

It is therefore, on their motion, ordered that said non-resident defendants be, and they are hereby, notified of the filing of said bill of complaint, the object of which is as above set forth, and that they
are required to appear before the judge of said circuit court
197 in chancery sitting on or before the third day of next April term thereof, at a court to be begun and held at the courthouse in the town of Lake Village, in said county, on Wednesday, the 16th day of April next after the date hereof, and then and there

plead, answer, or demur to said bill of complaint, or the same will be taken as confessed and a decree entered accordingly.

Attest: JOHN McLAIN, *Clerk*,
By JOS. McMURRAY, *D. C.*

In the Circuit Court of the County of Chicot, in the State of Arkansas. In Chancery.

To the April Term thereof, A. D. 1866.

To the honorable the judge of the circuit court of the county of Chicot, in the State of Arkansas. In chancery:

William W. Frazier, a citizen of Pennsylvania, and assignee of A. D. Kelly and A. D. Kelly & Co.; Samuel B. Newman, as ad-
198 ministrator of the estate of Horace F. Walworth, deceased, and who is a citizen of the State of Louisiana; Joseph S. Woolfolk and Lucy D. Woolfolk, his wife, in her right; William H. Todd and Altona C. George, as executrix of the last will and testament of Hosea George, deceased, for themselves, and in behalf of all the creditors of the estate of Junius W. Craig, late of the said county of Chicot, deceased, bring this their bill of complaint against the defendants following, that is to say:

Emma J. Wright, the city of Helena, in the State of Arkansas; Lewis E. Craig; William B. Street, as administrator of the estate of John P. Craig, deceased; William P. Halliday, in his right, and as executor of the supposed last will and testament of Junius W. Craig, deceased.

The State of Arkansas, as trustee under the supposed last will and testament of Junius W. Craig, deceased.

Sanford C. Faulkner; Everline M. Falkner, his wife, and their children; Sallie F. Brown and Henry M. C. Brown, her husband; Sanford C. Faulkner, Jr.; Matilda S. Buchanan and —— Buchanan, her husband; and Philip T. Faulkner and Mary Faulkner, infants.

199 And the heirs-at-law of the said Junius W. Craig, deceased, that is to say:

In right of their ancestress, Sarah Price, who was a sister of the father of the said Junius W. Craig:

Silas Price; Melissa P. Craig and, in her right, her husband, Robert W. Craig; Cyrene Gex; Sarah McCasline and, in her right, her husband, —— McCasline, whose Christian name is to the complainants unknown; Elizabeth Schaeffer and, in her right, her husband, —— Schaeffer, whose Christian name is to the complainants unknown; Jane Brown and, in her right, her husband, James Brown; John M. Price, Florida Price, Cyrene Luthroy, Hamilton Luthroy, and Willie Lathrop, the three last named being infants; and Nannie Peak, wife of James I. Peak.

In the right of their ancestor, Benjamin Craig, who was a brother of the father of the said Junius W. Craig:

Anderson O'Neal, Walton Craig, Albert G. Craig; the said Robert W. Craig, in his own right; Joshua M. Craig, Benjamin F. Craig,

Elizabeth Brooking and, in her right, her husband, Edward
200 Brooking; Thomas H. Whitehead, tenant, by the courtesy in right of his wife, Elizabeth Whitehead, deceased; and James Whitehead, an infant, their child; Polly Ann Lugles and, in her right, her husband, Charles Lugles; and Benjamin O'Neal.

In right of their ancestress, Nancy Bernard, who was a sister of the father of the said Junius W. Craig:

Mary E. Craig and John S. Craig, her husband, in her right; H. S. Kennedy, whose Christian name is unknown to the complainants, and the other unknown heirs, if any, of Priscilla Kennedy, deceased; and Mary C. Williamson.

In right of their ancestor, Levi Craig, who was a brother of the father of the said Junius W. Craig:

William V. Allen and E. Kate Allen, his wife, in her right; William D. Ferguson, as tenant by the courtesy, and his son, Alexander C. Ferguson, a minor; Charlea McKinney and Mary Ann McKinney; Taliaferro S. Craig; Martha Davis and, in her right, her husband, Benjamin Davis.

In right of their ancestress, Mary O'Neal, who was a sister of the father of the said Junius W. Craig:

201 John O'Neal, Nancy McCown, James O'Neal, William O'Neal, and Mary T. Mason.

In right of their ancestress, Bettie Bledsoe, who was a sister of the father of the said Junius W. Craig:

Bertrand Bledsoe, Elizabeth Beard, and in her right her husband, Thomas S. Beard; Sarah Van Hook, and in her right her husband, John H. Van Hook; Caroline Bledsoe, Dora Brown, and in her right her husband, Samuel Brown; Annie Bledsoe; an infant child of Enoch Bledsoe, deceased, whose name is unknown to the complainants; Parmelia Choate, Lydia Thomas, and in her right her husband, B. F. Thomas; Nancy Flynn, and in her right her husband, Robert Flynn; and Elizabeth Flynn, infant child of Mary Ann Flynn, deceased, all of whom are heirs of Benjamin Bledsoe, deceased; Lydia Montgomery, Watts Bledsoe, Job Bledsoe, Nancy L. Patterson, and in her right her husband, Malcom Patterson; Martha Morrow, and in her right her husband, Thomas Morrow, and the other unknown heirs, if any there be, of Lucy Ann Bailey, deceased, with whom, as tenants by the courtesy
202 in right of his wife, Betsey Ferguson, deceased, are the said William D. Ferguson and the said E. Kate Allen, as daughter of Isaac Bledsoe, deceased.

In right of their ancestor, George Craig, who was a brother to the father of the said Junius W. Craig:

George W. Craig and Sarah E. Craig, infant children of Morton Craig, deceased; Gazelle D. Roberts, and in her right her husband, Joseph R. Roberts; Edward Eggleston, George Eggleston, and Lowrey C. Eggleston, and William J. Eggleston, an infant; George C. Patton; Nancy T. Mendenhall, and in her right her husband, Miles Mendenhall; Tabitha O. Kyle, and in her right her husband, George Kyle; Eliza Wright, and in her right her husband, Thomas

T. Wright; Alice Craig and DeKalb Craig, infant children of DeKalb Craig, deceased.

In right of their ancestor, Lewis Craig, who was a brother of the father of the said Junius W. Craig:

Albert G. Hanks, tenant by the courtesy, as husband, of Nancy Hanks, deceased, and their children, Olive Hanks, Anna L. Hanks, Mildred Hanks, Graves Hanks, who are infants; Georgeana
203 Bledsoe, and in her right her husband, Daniel Bledsoe; Samuel Craig, Isaiah Craig, Silas Craig, William Craig, Sarah P. Russell, and in her right her husband, Robert Russell; Dorcas D. Hanks, and in her right her husband, Milton Hanks.

In right of their ancestor, Stuman Craig, who was a brother of the father of said Junius W. Craig.

The infant child, whose name is unknown, of Miles W. Hicks, deceased; John F. McCown, purchaser of the interest of the said miles M. Hicks; John Hicks, Samuel Hicks, and Bruce Hicks, infant children of Elizabeth Hicks, deceased; Joseph Craig, Susan Craig, and the said Lewis E. Craig.

And James S. Peak, Jordan J. Peak, Leland W. Peak, Lauranda Craig, wife of the defendant, Walton Craig, and the said Everline M. Faulkner, who are the brothers and sisters of the mother of the said Junius W. Craig, and Dudley P. Peak, also a brother of his mother.

And the said Joshua M. Craig, in his right as purchaser of the estate of the said Junius W. Craig, and also as administrator
204 with the will annexed of his estate, and Robert E. Craig, as administrator of the estate of the said John Anderson Craig, joint purchaser with the said Joshua M. Craig, of the said estate.

And thereupon your orators and oratrices in their own behalf and in that of all the other creditors of the estate of the said Junius W. Craig complain and say:

That Junius W. Craig, a citizen of the State of Arkansas, and resident of the county of Chicot, departed this life at Louisville, in the State of Kentucky, about the seventeenth day of September, A. D. 1858, leaving as his heirs-at-law the decendents aforesaid of the eight brothers and sisters of his father, and the aforesaid five brothers and sisters of his mother; and owning, at the time of his death, a large estate of lands, slaves, and personalty in the said county of Chicot; his lands were consisting chiefly as to value, of two plantations, called Bellvue and Yellow Bayou, and also valuable lands in the counties of Phillips, Desha, Monroe, and Crittenden, in this
205 State, and valuable real estate in the city of Louisville, and in the county of Jefferson, in Kentucky, and in the city of Memphis, in Tennessee; which estate came to him chiefly by descent, in part from his father and in part from his brother, who died before him.

They further say that the Bellevue plantation consisted of about 3,500 acres of land, and upon it were about one hundred and fifty negro slaves and much personalty; and the Yellow Bayou plantation consisted of about four thousand acres of land, on which were about sixty slaves and much personalty, and the lands owned by

him in other counties of Arkansas were in quantity about 20,000 acres, and chiefly unimproved. The real estate in Kentucky was worth about $75,000, and that in Memphis about $15,000; the slaves were appraised to the sum of $182,400, the personalty to that of $33,404.25, and the cash and choses in action amounted to the sum of $121,659.15, making the total value of slaves, personalty, cash, and choses in action $337,463.40, while the lands were worth,
206 in the whole, about half a million of dollars.

Your orators and oratrices further say that after the death of the said Junius W. Craig, who was alleged by many to be insane and incompetent to make a will, two papers were produced, each purporting to be his last will and testament, one executed on the 17th of July, 1858, with a codicil, and one executed on the 15th of June, 1858, by both of which he devised to the defendant, Emma J. Wright, one half of the net income of his estate for and during her life, the other half to be applied in improving and increasing his estate, and at her death the whole to be applied to the erection and endowment of a college at or near Helena.

That the paper last made was executed in presence of six attending witnesses, as was the addendum, a codicil, and there was thereby devised to the defendant, Lewis E. Craig, forty thousand dollars, and to John P. Craig ten thousand dollars; and Lewis E. Craig was thereby appointed trustee to carry out the will as to the erec-
207 tion of the college, his powers to devolve, upon his death, on three trustees of Helena to carry out his will and see to erecting and carrying on the college.

Your orators and oratrices further say that it was also alleged that a paper existed, uncancelled, which was the olographic will of the said Junius W. Craig, executed on the 29th of August, 1857, by which he devised to the said Eveline M. Faulkner for life, with remainder to her children, the Bellevue plantation, with slaves, stock, furniture, &c., thereon, and to the said Lewis E. Craig the Yellow Bayou plantation, with the negroes, stock, &c., thereon; to the said John P. Craig the property in Louisville; and to the said Alexander D. Kelly forty thousand dollars.

On the first of October, A. D. 1858, the defendant, Joshua M. Craig, obtained from the clerk of the probate court of the county of Chicot here, in vacation, letters of administration of the estate of said Junius W. Craig, which were confirmed by the court on the second day of December, A. D. 1858.

Meanwhile the defendant, Emma J. Wright, and William
208 P. Halliday being nominated as executrix and executor in and by the paper last executed as a will, on the 17th of July, 1858, and the former being a minor, the said William P. Halliday offered the said paper and the addendum for probate in the said probate court of Chicot county, and the same were, without objection, but under protest of the heirs-at-law, probated, in common form, as the last will and testament of the said Junius W. Craig, in the said probate court, on the 24th of January, 1859, the right of the heirs to contest the same in the circuit court being reserved.

And on the next day the defendants, Sanford C. Faulkner and

Eveline M. Faulkner, instituted suit and proceeding in this honorable court to contest the validity of said will, which was docketed on the law side hereof.

And on that day the defendant, William P. Halliday, applied to the probate court aforesaid for letters testamentary, which were refused, and on the 10th of February letters of administration *pendente lite* of said estate were by that court granted to the defendant Joshua M. Craig and one John R. Llewellyn, and from
209 both decisions the defendant Louis E. Craig appealed to this court.

And on the 20th of June, 1859, the defendants, Stanford C. Faulkner and Eveline M. Faulkner, and their children, and the said Alexander D. Kelly and John P. Craig, filed in the honorable court their bill against all the other heirs-at-law and against the defendants, Emma J. Wright, William P. Halliday, and the City of Helena, denying the validity of the two wills made in 1858, and setting up and relying on that made in 1857, and for divers reasons assigned, praying that issues might be ordered to try the validity of all as speedily as possible, for a decree in case either of the papers executed in 1858 should be established, that the demise for a college was ineffectual and null, and, in any case, that the respective rights and interests of the heirs should be settled, decreed and given effect into by one partition and distribution, and the assets be marshalled and final settlement had, and for one management of the estate and payment of debts in the meantime, and to that end asked the appointment of a receiver.

210 After which the suit for an issue and trial as to the validity of the last will was transferred to the chancery side of the court here.

And some of the parties defendant to the bill aforesaid having answered, and it being taken as confessed as to others, it was thereupon decreed, as prayed, that issues should be made up as to all the pretended wills, and all parties be bound by the verdicts and judgments therein; and issue was in due form made up as to last paper executed, and filed on the common law side of the court here on the 15th of October, 1859.

And the defendants, Joshua M. Craig and the said John R. Llewellyn, acted as administrators until the April term of the court here in the year 1860, when it was adjudged here that the probate court erred in refusing letters testamentary and granting letters of administration, and as this court, on the law side, reversed its action, from which judgment the said Joshua M. Craig appealed to the supreme court, and the complainants in the bill aforesaid filed in their motion for immediate appointment of a receiver.

211 Upon which a compromise was effected among the parties, and embodied in a decree of the court here, whereby it was made of record on the common law side of the court that the issue on said will of 17th July, 1858, was tried by a jury, and verdict rendered that it was valid, and it was decreed thereupon to be established, though no such trial was had, jury called, a verdict rendered; and thereupon, by consent of a portion of the heirs, and the father

and counsel of the minor, Emma J. Wright, and the counsel of the City of Helena, it was decreed that the defendant, Joshua M. Craig, and the said John Anderson Craig, should pay to the said Emma J. Wright, for her supposed interest in the estate under the compromise, the sum of two hundred thousand dollars, and the City of Helena, for its supposed interest under the bequest for a college, one hundred and fifty-two thousand five hundred dollars, and the said Lewis E. Craig was to receive thirty-five thousand, and said John P. Craig
212 ten thousand dollars, it having been agreed previous to the compromise to pay said Sanford C. Faulkner for said Everline M. Faulkner's claim, under the paper executed in 1857, thirty-five thousand dollars; and the heirs on the mother's side were to have the property in Kentucky and Tennessee; the debts of the estate to be paid out of the estate, and also the sums payable to said Lewis E. Craig and John P. Craig; after all which payments the heirs-at-law on the father's side, were to have the estate, they being considered owners of one-third of it under the compromise, and the said Joshua M. Craig and John Anderson Craig proposing to purchase their interests; and the defendant, William P. Halliday, was to have thirty thousand dollars, two thousand five hundred of of which was deducted from the $155,000 that was to have been paid to the City of Helena.

It was also agreed and decreed that the said William P. Halliday should resign his executorship, and that lettters of administration, with the will annexed, should be granted to the said Joshua M. Craig; and he thereupon withdrew his appeal to the supreme court,
213 and afterwards took such letters, and he and the said John Anderson Craig gave their acceptances and notes for the sums agreed to be paid the said Sanford C. Faulkner, Emma J. Wright, and the City of Helena, and the said Joshua W. Craig proceeded to administer said estate and to manage and cultivate the plantations and pay the debts.

Meanwhile, and before the October term, A. D. 1860 of this court, claims against the said estate had been presented, allowed, and closed in the probate court aforesaid, to the amount of two hundred and thirty-six thousand two hundred and eighty-nine dollars and thirty-four cents ($236,289.34), on which there had been paid in course of administration eighty-three thousand one hundred and ninety-five dollars and eighty-five cents ($83,195.85).

Among which allowances were the following, that is to say:

One in favor of the said A. D. Kelley & Co. for eight hundred and thirty-one dollars fifty-two cents ($831.52), and one for forty-five thousand six hundred and seven dollars seventy-six cents ($45,607.76), on which $19,266.09 had been paid.

214 One in favor of the said Horace F. Walworth for ten thousand one hundred and sixty-one dollars twenty-five cents ($10,161.25), and one for eleven thousand three hundred and fifty-three dollars and fifty-seven cents ($11,353.57), on which nothing has been paid.

One other in favor of A. D. Kelley & Co. for two thousand three

hundred and eighty-five dollars and thirty-six cents ($2,385.86), which had been paid in full.

Four in favor of the said Lucy D. Woolfolk, your oratrix, amounting together to fifth-eight thousand seven hundred and twenty-five dollars and sixty-four cents ($58,725.64), on which twenty-five thousand dollars has been paid; and one for three thousand four hundred and twenty-six dollars ($3,426), on which nothing had been paid.

Two in favor of your orator, William H. Todd, amounting together to forty-seven thousand one hundred and eighty-one dollars and sixty cents ($47,181.60), on which five thousand dollars had been paid on the 20th of October, A. D. 1860.

Two in favor of the said Hosea George, amounting together
215 nineteen thousand two hundred and sixty-four dollars and one cent ($19,264.01), on which eight thousand dollars had been paid.

Which claims in favor of the said firm of A. D. Kelly & Co. has been transferred to your orator, William W. Frazier, and bear interest from 12th January, 1859, and said payments thereon of $19,266.59 was made on the 1st of January, 1861.

And the said Horace F. Walworth has died intestate, and administration of his estate has been granted, by competent authority in the State of Louisiana, where he resided at the time of his death, to your orator, Samuel B. Newman.

And the said Hosea George has died leaving a last will and testament, whereof the complainant, Altona C. George is executrix, which will was duly admitted to probate in the county of Ashley, in this State, and letters testamentary thereon granted by the probate court of that county to your oratrix, and she took upon herself the burthen of the execution of said will.

The evidence of which transfer and assignment of the claims
216 and allowances in favor of A. D. Kelly & Co., and the letters of administration so granted to the said Samuel B. Newman and the letters testamentary so granted to the said Altona C. George, will be in due time, or whenever ordered or required, presented to the court here.

And your orator and oratrices will hereafter file, in court here or before the muster, the evidences of said allowances by the probate court, and statements of the amounts paid on those wherein payments have been made, whenever they may be ordered, required, or permitted to do so, whereby any error, mistake, or omissions in the statement of allowances and payments herein before made may be corrected.

They further state that, as they are informed, the only other unpaid allowances are as follows:

One in favor of Leland W. Peak for $5,375.16, and another in his favor for $522.81, and interest before allowance, upon which $3,300 dollars has been paid.

One in favor of R. A. Goodloe for $200.

One in favor of Leland W. Peak for $3,250.

And one in favor of Clabourn W. Sandus for $160.

217 Your orators and oratrices further represent that on the 16th of October, 1860, the said Joshua M. Craig and John Anderson Craig filed, in the court here, their bill, by which setting forth all the previous proceedings and the said decree of compromise, and showing that the said John Anderson Craig had determined to withdraw from the said joint purchase of the estate, and to let the said Joshua M. Craig take it wholly upon himself, but consenting to remain, in all respects, bound and obligated by his acceptances, endorsements, and notes, as before, if the said compromise should be carried out, the complainants therein insisted that the said Emma J. Wright was not bound by said decree because she was an infant; that some of the heirs repudiated it, and that the City of Helena had no interest nor could be trustee under the will, and had no power or right to make any compromise; that the will should not have been established by the decree, and that there never was any trial of the issues as to its validity, the record of the court here on the law side in that respect being false, and therefore they sought

218 to have the said decree so reformed, so that the said Joshua M. Craig should be safe in paying the claims agreed to be paid to the different parties, and should have assurance of good title after having done so.

Which bill the said Emma J. Wright and the City of Helena answered, insisting upon the affirmment and execution of the decree of compromise, while some of the heirs answered, repudiating it as unauthorized by them and a fraud upon them; on which answers issues have been formed by general replication, and the same still remains on the files, no steps having been taken in said cause after the April term, 1861, until the October term, 1865.

All which matters in regard to the said supposed will, and the proceedings in the probate court of Chicot county, and in the court on each side thereof, and other matters of record, by the said bills, petitions, pleadings, and proceedings on the files of this court still remaining, and which are prayed to be taken as parts of this bill, so far as it may be necessary, will more fully and at large appear.

219 Your orators and oratrices further represent that early in the year 1861 the State of Arkansas and ten other of the Southern States of the United States endeavored to withdraw from the Union of States, and established a central government for themselves, calling themselves the Confederate States of America, adopting a constitution, electing a president, vice-president, senators, and representatives, and creating the machinery of a government in all its departments, executive, legislative, and judicial, and setting on foot immense armies; and thereupon a civil war was waged between them and the United States until May, 1865, with varied fortunes, early in which war the forces of the United States obtained possession of that part of the Mississippi river on which the county of Chicot lies; the courts were closed and the civil laws virtually suspended in this county; a military government was extended over it by the commander of the Confederate forces in Arkansas; the president of the United States proclaimed the emancipation

220 of all the slaves in the State of Arkansas. A large number

of the slaves of the said estate were impressed into the Confederate service and carried away and retained in Arkansas and Texas until the end of the war, when they became free in fact as they had before become in law. Two thousand and seventy-eight bales of the cotton of the estate were burned by the Confederate military authorities. The *defacto* legislative powers of the State of Arkansas in 1861 prohibited the cultivation of cotton except in a limited amount, and the executive authorities *defacto* had power to enforce that enactment so that the said cultivation almost entirely ceased, and no cotton was raised on the plantations of the estate after the year 1861. The levees were broken, the dwelling-house and other buildings on the Bellevue plantation were burned, the fences destroyed, and everything in a county harrassed by the predatory bands of both parties fell into decay and ruin, to the great diminution in value of said property, and especially of the Bellevue plantation, while the wild lands of said estate have become, as available assets, almost worthless.

221 Your orators and oratrices further represent that the breaking out of the war, which compelled A. D. Kelly & Co., like other commission houses in New Orleans, to refuse accommodations to planters, suddenly and completely and permanently incapacitated the said Joshua M. Craig to keep the creditors of his said purchase, so that his acceptances, endorsements, and notes remain unpaid; that the cotton belonging to said estate being wasted and destroyed, and slaves removed and afterwards freed, it is now become impossible to pay the debts of the estate by carrying on the plantations, nor do your orators and oratrices consent to await the slow and uncertain results of such an experiment; and the said Joshua M. Craig having in like manner lost all his own slaves, and his own plantation being mortgaged to the said Emma J. Wright to secure said debt of two hundred thousand dollars and the rapidly increasing interest, and he being thus impoverished, and the said John Anderson Craig having

222 died, and fifty thousand dollars or more left by him having disappeared, and his lands being also heavily mortgaged to secure said notes given to the city of Helena, it has become utterly impossible for said Joshua M. Craig to carry out said compromise, or for the debts of said estate to be paid by him or by the administrator of the said John Anderson Craig, and the personalty of said estate of said Junius W. Craig has been ex-austed, and little can be made of the remaining choses in action belonging to it.

They further represent that the said Joshua M. Craig and the said Robert E. Craig, as administrator of the estate of the said John Anderson Craig, have now filed in the court here their bill of reviver and supplement, by which they insist that the said Emma J. Wright has violated the said compromise and made it impossible to obtain the assent of the heirs to it, and that the city of Helena was not competent to enter into such a compromise, having no interest, as trustee or otherwise, under said will, and therefore praying that the decree of compromise may be set aside and held for naught, and the said Emma J. Wright and the city of Helena be remitted to

223 their rights, if any they have under said will, if it be a will; and the said Joshua M. Craig praying to be released from

said office of administrator with the will annexed, upon settlement of his accounts, and suggesting that the State of Arkansas is an indispensible party to assert the validity of the said charitable bequest, and see the intentions of the testator carried into effect; upon which supplement order of publication must be made, and decree delayed until some future term of this court, all which by the said bill of revivor and supplemental bills in the files of the court here remaining will more fully and at large appear, and the same is prayed to be taken, if necessary, as part of this bill.

Your orators and oratrices further represent, that the said Emma J. Wright has instituted suit in the chancery court of Louisville, in the State of Kentucky, and on the chancery side of the common law and chancery court of Memphis, in the State of Tennessee, to enforce the pretended lien upon the realty in these States, which she claims to have under said compromise decree upon the same,
224 to secure the said notes given her by the said Joshua M. Craig and John Anderson Craig, and seeks to have sale of said realty to satisfy said lien and part of said notes.

In which suit in the chancery court of Louisville your orator and oratrix, Joseph S. and Lucy D. Woolfolk, have intervened by petition to have their said debt probated and allowed as aforesaid, first paid out of the said realty in Kentucky, and in the said suit on the chancery side of the common law and chancery court of Memphis, your oratrix, Altona C. George, as executrix as aforesaid, has intervened by petition to have the said debt due said Hosea George, and which has been probated and allowed, as aforesaid, in the fourth class, first paid and satisfied out of said realty in Memphis. All which said suits are still pending in said courts.

And the said realty in the city of Memphis has been sold for city taxes under a judgment of the said common law and chancery court, and purchased by and conveyed to the said William D. Ferguson.

225 And the said estate is liable to further and continued deterioration, diminu*t*ation in value, and sale for taxes levied by the United States, and for taxes due the State of Arkansas, and the several counties in which the lands lie, while the debts due your orators and oratrices are delayed of payment by the controversies and quarrels between a huge number of parties, with whose disputes the creditors are in no wise concerned, although seven years and a half have passed since the said Junius W. Craig departed this life, leaving ample means to pay three fold his debts.

Your orators and oratrices further represent that whether the said Junius W. Craig died testate or intestate, the debts due by him at the time of his death, and duly allowed, are the first charge upon his estate, which is perfectly solvent still.

Wherefore, and as the litigation among those who claim as heirs at law and as legatees seem to be interminable, and the interests of the creditors are wholly lost sight of, and as it is surely time that
226 this court into which the estate and its administration have been brought, and which has been so long harrassed and annoyed by the disputes of the claimants, should be permitted to pay

attention to the interests of the creditors, and as it is absolutely necessary to make sale of the lands of the estate for the payment of debts, and as, besides, the said proceedings against the realty in Kentucky and Tennessee, your orator, William H. Todd, holds a mortgage upon the Yellow Bayou plantation for the security of his debt against said estate, and is entitled to enforce the same by proceeding for foreclosure, and as your orators and oratrices are under no manner of obligation to accept the responsibility of the said Joshua M. Craig in lieu of that of the estate, and do now hereby decline to do so any longer, and as the assets of said estate can only be marshalled in chancery, and the holders of specific liens, howsoever obtained or created, compelled first to resort to and exhaust the property upon which they have such liens, while the sale of the other prop-
227 erty and the payment of the other debts should not be delayed thereby.

To the end therefore that the said defendants, and each of them, may upon oath make full and perfect answer to the allegations of this bill as particularly and fully as though the same were here again repeated, and they unto each specifically interrogated, except the said State of Arkansas and the said minor heirs, and that the said State answer by her proper officer, and the said infants by guardians *ad litem*, appointed by the court here, and that your orators and oratrices, and all other the creditors of the said estate have day before the master in chancery, and be permitted to present and establish their claims, and that the same be classified, and that all specific lien be duly enforced, and that by decree it be directed that the lands of said estate, not charged with specific liens, be sold at an early day, and the proceeds paid into court here to be marshalled and distributed, and that equitable distribution thereof be made among the creditors in proper order, and that in the
228 meantime the property may be preserved and properly managed, and the said Joshua M. Craig relieved of the administrations. And that your orators and oratrices and other creditors may have such other and further relief as may be suited to the nature of the case and consistent with equity. Your orators pray order of publication as to all the defendants who are now residents of the State, and subpœna to those who are residents of the same, and that the attorney general, or other proper officer of the State, be admonished of the necessity of the intervention of the State if she desires to oppose the granting of said relief. And also they especially pray your honor to appoint a receiver to take charge of the remaining property of the said estate, to manage and preserve the same, to make settlement with the said Joshua M. Craig, as administrator, and receive from him all assets and choses in action in his hands, to collect said choses in action, and apply the proceeds and all other assets to the payment of the debts. And your orators and oratrices, as in duty bound, will ever pray.

ALBERT PIKE,
229 CHAS. W. ADAMS,
CHAPMAN & CARLTON,
Solicitors for Complainants.

STATE OF ARKANSAS, *County of Chicot:*

I, C. H. Carlton, do solemnly swear that the following named persons, defendants to the foregoing bill, are non-residents of the State of Arkansas, that is to say:

Emma J. Wright, William P. Halliday, Silas Price, Melessa P. Craig, Robert W. Craig, Cyrene Gex, Sarah McCaslin and her husband —— McCaslin, Elizabeth Schaeffer and her husband —— Schaeffer, Jane Brown, James Brown, John M. Price, Florida Price, Cyrene Lathrop, Hamilton Lathrop, Willie Lathrop, Anderson O'Neal, Walton Craig, Albert G. Craig, Benjamin F. Craig, Elizabeth Brooking, Edward Brooking, Thomas H. Whitehead, James Whitehead, Polly Ann Lugles, Charles Lugles, Benjamin O'Neal, Mary E. Craig, John L. Craig, H. S. Kennedy, the other unknown heirs of Precilla Kennedy, William V. Allen, E. Kate Allen,
230 William D. Ferguson, Alexander C. Ferguson, Charles McKinney, Mary Ann McKinney, Taliaferro S. Craig, Martha Davis, Benjamin Davis, John O'Neal, Nancy McCown, James O'Neal, William O'Neal, Mary T. Mason, Bertrand Bledsoe, Elizabeth Beard, Thomas L. Beard, Sarah Van Hook, John H. Van Hook, Caroline Bledsoe, Dora Brown, Samuel Brown, Annie Bledsoe, the infant child of Enoch Bledsoe, deceased; Parmelia Choate, Nancy Flynn, Robert Flynn, Elizabeth Flynn, Lydia Montgomery, Watts Bledsoe, Nancy F. Patterson, Malcolm Patterson, Martha Morrow, Thomas Morrow, Lucy Ann Bailey's unknown heirs, George W. Craig, Sarah E. Craig, Gazelle D. Roberts, Edward Eggleston, George Eggleston, Lowry C. Eggleston, William J. Eggleston, George C. Patton, Nancy T. Mendenhall, Miles Mendenhall, Tabitha O. Kyle, George H. Kyle, Eliza Wright, Thomas F. Wright, Alice Craig, De Kalb Craig, Albert G. Hanks, Olive Hanks, Ann S. Hanks, Mildred Hanks, Graves Hanks, Georgeana Bledsoe, Daniel Bledsoe, Samuel Craig, Isaiah Craig, Silas Craig, William Craig, Sarah B. Russell, Robert Russell, Dorcas D. Hanks, Melton Hanks, the infant child of Miles M. Hicks, deceased; John T. McCoun, John Hicks, Samuel
231 Hicks, Bruce Hicks, Joseph Craig, Susan Craig, Jordan J. Peak, Leland W. Peak, Dudley P. Peak, and Laurenda Craig; so help me God.

C. H. CARLTON.

Sworn to and subscribed before me, this 13th day of March, A. D. 1866.

JNO. McLEAN,
Clerk of Circuit Court of Chicot County, Arkansas,
By JAS. McMURRAY, *D. C.*

I, Johnson Chapman, do hereby acknowledge myself to be held and firmly bound unto Emma J. Wright, The City of Helena, Lewis Craig, and unto all of the defendants to the annexed and foregoing bill of complaint, in the just and lawful sum of one hundred and fifty dollars—

Conditioned that whereas W. W. Frazier, A. D. Kelly, and other of the creditors of the estate of Junius W. Craig, deceased, is about

to file in the Chicot circuit court on the chancery side thereof said bill of complaint against the said Emma J. Wright, The City of Helena, Lewis E. Craig, and the other heirs and claimants to said estate:

232 Now, therefore, if I pay all costs that may accrue in said cause, then the above bond to be void, otherwise to remain in full force and effect.

Witness my hand and seal, the 12th day of M'ch, 1866.

JOHNSON CHAPMAN.

Endorsed as follows: Filed, bond approved, and writs issued, this 13th March, A. D. 1866.

JNO. MACLEAN, *Cl'k*,
By JAS. McMURRAY, *D. C.*

STATE OF ARKANSAS, *County of Chicot.*

State of Arkansas to the sheriff of Pulaski county, Greeting:

You are hereby commanded to summon the State of Arkansas, as trustee, &c., Sanford C. Faulkner, Eveline M. Faulkner, Sally F. Brown, Henry M. C. Brown, Sanford C. Faulkner, Jr., Matilda J. Buchanan, — Buchanan, and Philip F. Faulkner and Mary P. Faulkner, infants, if *he* be found within your bailwick, to appear before the judge of our circuit court of Chicot county, in chancery

233 sitting, at the court-house in the county aforesaid, on the first day of our next April term, at a court to be holden on the 16th day of April next, then and there to answer a bill in chancery exhibited against them by W. W. Frazier and other *candidates* of the estate of Junius W. Craig, deceased; and this they shall in no wise omit, at their peril, and that you make due return of this writ to said court.

In testimony whereof, I have hereunto set my hand as clerk of said court and affixed the seal of office, this 13th day of March, A. D. 1866.

[SEAL.] JNO. McLEAN, *Clerk.*
By JAMES McMURRAY, *D. C.*

Fifty cents (50 cts.) in U. S. Rev. stamp affixed.

Endorsed as follows: State of Arkansas, county of Pulaski. I certify that I executed this writ on the 2nd day of April, A. D. 1866, at the county of Pulaski, by then and there delivering a true copy of the same to the within-named Sanford C. Faulkner, Eveline M. Faulkner, Sallie F. Brown, Matilda J. Buchanan, — Bu-

234 chanan, Philip T. Faulkner, and Mary P. Faulkner, and by delivering a true copy of the within to the auditor of public accounts. The within-named Henry M. C. Brown and Sanford C. Faulkner, Jr., can not be found in my county. J. R. R. Adams, By J. W. Kison.

STATE OF ARKANSAS, *County of Chicot:*

State of Arkansas to the sheriff of Chicot county, Greeting:

You are hereby commanded to summon Lewis E. Craig, Joshua

M. Craig, Robert E. Craig, as adm'r of the estate Jno. A. Craig, dec'd, James S. Peak, and Nannie P. Peak, if they be found in your bailwick, to appear before the judge of our circuit court of Chicot county in chancery sitting, at the court-house in the county aforesaid, on the first day of our next April term, at a court to be holden on the 16th day of April next, then and there to answer William W.
235 Frazier and other creditors of the estate of Junius W. Craig, of a bill in chancery exhibited against them, and this they shall in no wise omit at their peril, and that you make due return of this writ.

In testimony whereof I have hereunto set my hand as clerk of said court and affixed the seal of office, this 13th day of March, A. D. 1866.

[SEAL.] JNO. McLEAN, *Clerk*,
By JAS. McMURRAY, *D. C.*

[50 cents int. rev. stamps affixed.]

Endorsed as follows: Came to my hand 14th day of March, 1866. Thos. Hunnicutt, sheriff, B. J. H. Clary, D. S. Executed this writ by delivering to the within-named Lewis E. Craig, Joshua M. Craig, Robert E. Craig, James S. Peak, and Nannie P. Peak true copies thereof on the 16th day of March, A. D. 1866. Thos. Hunnicutt, sheriff.

STATE OF ARKANSAS, *County of Chicot:*

236 State of Arkansas to the sheriff of Phillips county, Greeting:

You are hereby commanded to summon the city of Helena, if she be found within your bailwick, to appear before the judge of our circuit court of Chicot county in chancery sitting, at the court-house in the county aforesaid, on the first day of our next April term, at a court to be holden on the 16th day of April next, then and there to answer a bill in chancery exhibited against them by W. W. Frazier and other creditors of the estate of Junius W. Craig, deceased, and this she shall in no wise omit at her peril, and that you make due return of this writ to said court.

In testimony whereof I have hereunto set my hand as clerk of said court and affixed the seal of office, this 13th day of March, A. D. 1866.

[SEAL.] JNO. McLEAN, *Clerk*,
By JAMES McMURRAY, *D. C.*

[50 cents U. S. int. rev. stamps affixed]

Endorsed as follows: Executed the within subpœna upon the within-named city of Helena, defendant, through her mayor,
237 H. M. Grant, at the county of Phillips, State of Arkansas, on the 27th day of March, A. D. 1866, by then and there reading the within to him and in his presence and hearing, and at the same time furnishing a certified copy of the within. Joseph Impey, sheriff. John H. Hanly, D. S.

Order Noting the Filing of the Answer of Emma J. Thomas and Eliza Wright and Wm. P. Halliday.

At a special called term of the Chicot circuit court, on the 27th day of June, 1866, the following among other proceedings were had, viz:

Creditors of J. W. CRAIG *v.* EMMA J. WRIGHT *et al.*

Come the defendants, Emma J. Wright, Thomas T. Wright, and Eliza Wright, William P. Halliday, and the City of Helena, by their solicitors, and file here their joint and separate answers to the bill herein, and the defendants, by their solicitors, and file herein a motion to appoint a receiver for the est. of said Craig.

238 *Answer.*

STATE OF ARKANSAS, *County of Chicot:*

In the Circuit Court of said County of Chicot, on the Chancery Side thereof. April Term, 1866.

The joint and several answers of Emma J. Wright, William P. Halliday, Thomas T. Wright, and Eliza Wright, his wife, and the City of Helena, in the State of Arkansas, to the bill in chancery filed against them and others, in said court, to the April term, 1866, by William W. Frazier and others, for themselves and the other creditors of Junius W. Craig, deceased, for answer to so much as they are advised it is material and necessary for them to answer unto, answering, say:

That they admit the death of the said Junius W. Craig at the time and place states in said bill, leaving as his heirs-at-law the brothers and sisters of his father and mother and their descendants,
239 and also the large amount of property of the value and kind and situated as stated in said bill.

Respondent admits the making of the paper of the 16th June, 1858, and 17th July, 1858, and that the substance of both is correctly stated in said bill. They admit the devises to Lewis E. Craig and John P. Craig, and the appointment of Lewis E. Craig as trustee to carry out the devise for a college at the city of Helena, as therein stated, but insist that there were six subscribing witnesses to said will of July 17th, 1858, instead of five, as stated in said bill.

They admit the existence of the paper dated 29th August, 1857, and devises as therein stated, though they deny that the same was in existence at the time of his death, or was the last will and testament of Junius W. Craig, dec'd, at the time of his death. Respondents admit the taking out of letters of administration by Joshua M. Craig upon the estate of Junius W. Craig, dec'd, from the probate court of Chicot county, Arkansas, bearing date Oct. 1st, 1858, as stated in said bill. Respondents admit the probate of the
240 will of July 17th, 1858, in the probate court of Chicot county, Arkansas, as stated in said bill, and also the institution of t' e suit of Sanford C. Faulkner and Eveline M., his wife, as therein stated. Respondents admit the application of William P. Halliday

for letters testamentary, the refusal, the grant of letters of administration to Joshua M. Craig and John R. Llewellyn, and the appeals from each order of the probate court of Chicot county, by Lewis E. Craig, as stated in said bill. Respondents admit the suit of June 20th, 1859, in this honorable court by Sanford C. Faulkner *et als. vs.* Emma J. Wright *et als.*, as stated in said bill, together with the proceedings thereunder, which resulted in a decree of compromise between the respective parties, and they deny that the said decree of compromise is correctly set out in said bill, and they make part of this their answer, and refer to said decree now of record in your honorable court, and ask that the same may be taken and considered as a part hereof.

Respondents admit the allowance and classification of claims
241 against said estate of Junius W. Craig, deceased, as stated in said bill, but they are not informed as to the amount of payments thereon, and cannot answer thereto. But respondents do not admit that the said claims are due as stated in said bill. They charge that the said Joshua M. Craig has had in his possession since the death of the said Junius W. Craig a large amount of assets which ought to have applied to the extinction of said claims, and which to a certain extent the- believe he did do. That said Joshua M. Craig, in his various capacities of adm'r, coadm'r with John R. Llewellyn, and sole adm'r under the compromise, was — had possession and control of the cotton crops of the estate of the said Junius W. Craig for the year- 1858, 1859, 1860, and 1861, and of the rents and profits of the property in the city of Louisville, in the county of Jefferson, and in the city of Memphis for a part of that time, amounting, as respondents are informed and believe and charge the fact to be, to more than four hundred thousand dollars. That said Joshua M.
Craig during all this time has had possession of the bills
242 receivable due to said estate, amounting, as per inventory filed by him, to $121,659.15, a large proportion of which might have been and probably has been collected, and respondents charge that nearly if not all of the cotton for the years 1858, 1859, 1860, and 1861 was shipped to the house of A. D. Kelley & Co., of New Orleans, the assignors of the said complainant, William W. Frazier, and they charge that the said debts now in said bill demanded have been fully paid off and discharged by the said Joshua M. Craig, and respondents further charge that there have been various and extended transactions between the said complainant, William H. Todd, and the said Joshua M. Craig, since the allowance, as aforesaid, — claims in favor of complainant, and that the said Joshua M. Craig has fully paid off and discharged the same, and that as to the said claims of the said William W. Frazier and the said William H. Todd, the said estate of Junius W. Craig does not owe the same, nor any part thereof. Respondents further charge
that the original bill in this cause is filed and this suit
243 brought by collusion between the complainants and the said Joshua M. Craig, and that the said Joshua M. Craig is desirous to see all of the estate of the said Junius W. Craig absorbed in the payment of debts, and that he is perfectly willing to relin-

quish the administration thereupon and have a receiver appointed, if such receiver can be a man in the interest of him, the said Joshua M. Craig, so that the said Joshua M. Craig shall still manage to keep and hold control of the assets of said estate. Respondents further charge that all of said complainants have overstated the amount of their claims against said estate of the said Junius W. Craig, dec'd, and that the sums demanded are not justly due them, but that large portions thereof have been paid to them by the said Joshua M. Craig, as administrator of the said Junius W. Craig, deceased.

Respondents, further answering, admit the filing by Joshua M. Craig and John Anderson Craig of their bill in this honorable court of the 16th of October, 1860, for the purpose, and the proceedings thereunder, as stated in said bill, including the answers of
244 the said City of Helena, the said Emma J. Wright, and a portion of the heirs, and that no steps were taken therein between the April term of this honorable court for 1861 and the October term thereof, 1865. Respondents admit the state of war, as stated in said bill, commencing early in 1861, and continuing until May, 1865, and the general ravages of the country, the emancipation of the negroes, destruction of property, &c., consequent thereon; but they deny that 2,078 bales of the cotton of the estate of Junius W. Craig were burned, as stated therein. They admit a great diminution in the value of property generally, and particularly of the Bellevue plantation, and of wild and uncultivated lands. They admit that the said Joshua M. Craig has shown himself wholly and totally unfit for the position of trust in which he is placed, as adm'r of the estate of Junius W. Craig, and that he would never pay off the indebtedness of said estate, if the same was left in his hands, and that he ought to be removed from said administration. Respondents, further answering, say that they are not informed as to what portion of the
245 choses in action of the said Junius W. Craig have been reduced to possession by the said Joshua M. Craig, but they insist that by due diligence he might have collected a large portion thereof.

Respondent, admit the filing by the said Joshua M. Craig and by Robert E. Craig, as adm'r of the said John Anderson Craig, of the said bill of revivor and supplement with a view and for the purpose stated in said bill. They admit the filing by the said Emma J. Wright of their suit in the chancery court of the city of Louisville, and her suit on the chancery side of the common law and chancery court of the city of Memphis, with a view and for the purposes stated in said bill, and that complainants, Joseph S. and Lucy D. Woolfolk, have intervened by petition in the ch'y court of the city of Louisville to have their debt satisfied out of the said property in Kentucky, and that complainant, Altoona C. George, as executrix, &c., has intervened by petition in the chancery court of the city of Mem-
246 phis, in the suit therein pending as aforesaid, to have her said debt satisfied out of said property in the city of Memphis, and that said suits are still pending in said courts. Respondents state that they are not informed as to whether or not the realty in Mem-

his has been sold for taxes and purchased by the said William D. Ferguson.

Respondents admit that the said estate is liable—deterioration and waste so long as the same remains in the hands of the said Joshua M. Craig, as adm'r of Junius W. Craig, and that the debts due by said estate ought long since to have been paid by him, and that some steps ought to be taken to remove him from the administration and place the said estate in the hands of some one who will carefully guard and protect the interests of all concerned therein, and husband the resources thereof, and appropriate the resources thereof to their legitimate purposes, which they insist the said Joshua M. Craig has not done. Respondents charge that the said A. D. Kelly &
247 Co. were instructed by the said Joshua M. Craig not to pay his drafts on them, and that their failure to pay the same was caused by his instructions.

Without this that there is any allegation in said bill contained, and not herein specifically denied that is true in substance or in fact.

And respondents pray that the affirmative matter herein contained may be taken and considered as a cross-bill against said complainants and the said Joshua M. Craig, and that they may be required to discover upon their respective corporate oaths—

1st. Whether all or any portion of the claims set up in said original bill, except the credits as therein stated have been. If so, how much, when, and by whom?

2nd. That the said Joshua M. Craig discover what quantity of cotton belonging to the said Junius W. Craig's estate he received of the crops of the years 1858, 1859, 1860, and 1861, what sums he realized therefrom, what disposition he made of the cotton, and what disposition of the proceeds thereof.

248 3rd. That the said Joshua M. Craig likewise discover what sums he realized from the rents and profits of the real estate in the county of Jefferson, city of Louisville, and city of Memphis, and what disposition he made of the same, and what sums he has realized from the bills receivable and other assets belonging to the estate of his intestate, and what disposition he has made of the same.

4th. That the said A. D. Kelly & Co. may discover how much cotton belonging to the estate of the said Junius M. Craig was shipped to them during the years 1858, 1859, 1860, and 1861, what disposition was made of the same, what amounts of said cotton or other assets in their hands belonging to said estate or proceeds arising therefrom they applied to the payment of the claims they hold against said estate and in said bill described; why it was that with so much money belonging to said estate in their hands they did not reserve enough to liquidate the debts due them by
249 said estate; when and for what consideration they assigned said claims to said William W. Frazier.

5th. That the said William H. Todd discover whether or not he has any transaction or transactions with Joshua M. Craig by which any greater portion of his claims against said estate have been settled, except what is stated in said bill.

6th. That said complainants and said Joshua M. Craig discover whether complainants or either of them hold said claims, or any part of either of them, as trustee for any other person or persons except themselves, and whether the said Joshua M. Craig is in anywise interested in said claims or either of them.

7th. That they discover whether there was any agreement or understanding between themselves or any of them and the said Joshua M. Craig in the bringing of the creditors' bill in this behalf, or any correspondence between themselves and the said Joshua
250 M. Craig, his agents or attorneys, in regard thereto before the same was brought; and, if so, what?

And respondents pray for such relief as may seem just and proper to the court here after the coming in of the answers and hearing of testimony and final hearing of this cause. And as in duty bound they will ever pray, &c.

HANLY & SCARFE &
PALMER & WYGANT,
For City of Helena.
PALMER & WYGANT, &
ROBINSON, LEWIS & CRACRAFT,
For the Wrights and Wm. P. Halliday.

STATE OF TENNESSEE, *City of Memphis:*

Personally came and appeared before the undersigned commissioner for the State of Arkansas, resident in the State of Tennessee, Emma J. Wright, Eliza Wright, Thomas T. Wright, respondents in the foregoing answer, who, being duly sworn, say, on oath, that the matters and things therein contained are true, so far as stated
251 on their own knowledge, and so far as stated on the information of others they believe them to be true.

T. T. WRIGHT.
E. L. WRIGHT.
EMMA J. WRIGHT.

Subscribed and sworn to before me, this 5th day of June, A. D. 1866.

In testimony whereof, I have hereunto signed my name and affixed my official seal, at office, in Memphis, the day and year above written.

H. E. HUDSON,
Commissioner of Deeds, State of Arkansas, Memphis, Tenn.

STATE OF ARKANSAS, *County of Phillips:*

Personally came and appeared before the undersigned, one of the [justices] of the peace for the county and State aforesaid, Hector M. Grant, mayor of the city of Helena, one of the respondents in the foregoing answer, who, being duly sworn, says, on oath, that
252 the matters and things contained, so far as stated on his own knowledge, are true, and so far as stated on the information of others, he believes to be true.

H. M. GRANT.

Subscribed and sworn to before me, this the 23d day of June, A. D. 1866.

N. RIGHTON, *J. P.*, J. Peace.

STATE OF ARKANSAS, }
County of Phillips, City of Helena, } *ss:*

I, Hector M. Grant, mayor of the city of Helena, do hereby certify and make known that the allegations, statements, matters, and things in the above and foregoing answer of the city of Helena to the bill of complaint of William W. Frazier and others, in the circuit court of Chicot county, on the chancery side thereof, exhibited against said city of Helena and others, defendants, so far as the same are stated upon knowledge, are true, and so far as the
253 same are stated upon information derived from others, I believe it to be true.

In testimony whereof, I have hereunto set my hand as such mayor as aforesaid, and caused the seal of said city of Helena to be affixed, at office, this 23rd day of June, A. D. 1866.

[SEAL.]

H. M. GRANT,
Mayor of the City of Helena.

STATE OF ILLINOIS, *Alexander County:*

Personally came and appeared before me, the undersigned, a justice of the peace in and for the county of Alexander and State of Illinois, William P. Halliday, one of the respondents in the foregoing answer, who, being duly sworn, says, on oath, that the matters and things contained therein, so far as stated on his own knowledge, are true, and so far as stated on the information of others, he believes them to be true.

W. P. HALLIDAY.

254 Sworn to and subscribed before me, this 9th day of June, A. D. 1866.

JAS. E. McCRITE, *J. P.* [SEAL.]

[Stamp, U. S. Int. Rev., 5 cts.]

STATE OF ILLINOIS, }
Alexander County, } *ss:*

I, Jacob Lynch, clerk of the county court in and for said county, do hereby certify that James E. McCrite, whose genuine signature appears above, and before whom the foregoing affidavit purports to have been made, is now and was at the date thereof, an acting justice of the peace in and for said county, duly commissioned and sworn and authorized to administer oaths in said county, and that full faith and credit are due all his official acts as such justice. I further certify that his signature thereto is genuine.

255 Given under my hand and official seal at office in Cairo, this, the 9th day of June, A. D. 1866.

[SEAL.]

JACOB LYNCH,
County Clerk.

Endorsed thereon: Filed in open court, this 27th day of June, 1866. Jno. McLean, cl'rk.

Order for Order of Publication.

At a special called term of the Chicot circuit court in chancery on the 28th day of June, 1866, a day of said term of said court, among others the following proceedings were had, viz:

WILLIAM W. FRAZIER & others, creditors of Junius W. Craig, dec'd,
vs.
EMMA J. WRIGHT & others.

Came the complainants by their solicitors, and it appear-
256 ing to the court here that the defendants, Lewis E. Craig, Joshua M. Craig, Robert E. Craig, as administrator of the estate of John Anderson Craig, deceased, James S. Peake and Nannie P. Peake have been duly served with process in this cause, and having failed to appear and plead, answer, or demur to the bill in this cause, the same as to them is taken for confessed; and it further appearing by the return upon the process issued in this cause that the defendants, Henry M. C. Brown and Sanford C. Faulkner, Jr., are not found, and by affidavit attached to said bill that the defendants, Emma J. Wright, William P. Halliday, Thomas T. Wright, Eliza Wright, Charles S. Moorehead, Silas Price, Malissa P. Craig, Robert W. Craig, Cyrene Gex, Sarah McCaslin, —— McCaslin, her husband; Elizabeth Schefer, —— Schefer, husband; Jane Brown, James Brown, John M. Price, Florida Price, Cyrene Lathrop, Willie Lathrop, Nanni P. Peak, Anderson O'Neal, Walton Craig, Albert G. Craig,
257 Benjamin F. Craig, Edward Brooking, Thomas Whitehead, Charles Ingles, Polly Ann Ingles, Benjamin O'Neal, H. S. Kennedy, and other unknown heirs of Priscilla Kennedy, John S. Craig, Mary C. Williamson, William V. Allen, E. Kate Allen, Alexander C. Ferguson, William D. Ferguson, Charles McKenny, Mary Ann McKenny, Benjamin Davis, Martha Davis, John O'Neal, William O'Neal, Mary T. Mason, Bertrand Bledsoe, Thomas L. Beard, Elizabeth Beard, John H. Van Hook, Sarah Van Hook, Caroline Bledsoe, Dora Brown, Ann Bledsoe, and infant child of Enoch Bledsoe, dec'd, whose name is unknown; Parmelia Chote, Nancy Flinn, Lydia Montgomery, Job Bledsoe, Nancy T. Patterson, Malcomb Patterson, her husband; Martha Morrow, and her husband, Thomas A. Morrow, and other unknown heirs of Lucy Ann Bailey, deceased; George W. Craig, Sarah E. Craig, Gazelle Roberts, Joseph R. Roberts, Edward Eggleston, Geo. Eggleston, William J.
258 Eggleston, Lowry C. Eggleston, George C. Patton, Miles Mendenhall, Nancy T. Mendenhall, George H. Kyle, Tabitha O. Kyle, Alice Craig, DeKalb Craig, Albert G. Hanks, Olive Hanks, Aaron T. Hanks, Mildred Hanks, Graves Hanks, Daniel Bledsoe, Georgiana Bledsoe, Samuel Craig, Isiah Craig, Silas Craig, William Craig, Robert Russell, Sarah P. Russell, Milton Hanks, Dorcas D. Hanks, the infant child, whose name is unknown, of Miles M. Hicks, deceased; John T. McCown, John Hicks, Samuel Hicks, Broncie

Hicks, Joseph Craig, Susan Craig, Jordon J. Peak, Leland W. Peak, Dudley P. Peak, Laurinda Craig, and Alexander, D. Kelly, are not residents of the State of Arkansas; it is ordered by the court that they be notified of the pendency of this suit, the object of which is to subject the estate of the said Junius W. Craig, deceased, to the payment of his debts, and to remove all incumbrances and impediments therefrom, and that unless they shall on or before the fourth day of the next term of this court appear and plead, answer,
259 or demur to said bill, the same will be taken for confessed, and a decree therein entered accordingly, and to that end that this order be published in the Southern Shield, a newspaper printed and published in the city of Helena, in this State, for the number of times and within the time prescribed by law; and this cause is continued until the next term of this court.

And at the same term of said court, and on the same day, the following among other proceedings were had, viz:

CREDITORS OF JUNIUS W. CRAIG *v.* EMMA J. WRIGHT *et al.*

Come the said defendants by solicitors, and by leave of the court the notice for a receiver heretofore filed herein is withdrawn, and by consent this cause is continued.

260 STATE OF ARKANSAS, *County of Phillips:*

I, Q. K. Underwood, publisher of the Southern Shield, a weekly newspaper printed and published in the town of Helena, State of Arkansas, do solemnly swear that the annexed order of publication, in the case of ——— *vs.* ———, was published in said paper for two weeks successively, the first insertion thereof having been made on the 25th day of August, A. D, 1866, and the second insertion thereof on the 1st day of September, 1866.

Q. K. UNDERWOOD.

Sworn to and subscribed before the undersigned clerk of the circuit court within and for said county, this 13th day of October, A. D. 1866.

A. B. SCHRODER, *Clerk,*
By R. MALONEY, *D. C.*

Indorsed thereon: Filed in open court October 16th, 1866. J. McMurray, clerk, by J. M. Bliss, D. C.

261 *Notice.*

STATE OF ARKANSAS, *County of Chicot:*

In the Chicot Circuit Court, at the June special term thereof, A. D. 1866.

WM. W. FRAZIER and others, creditors of Junius W. Craig, deceased,
v.
EMMA J. WRIGHT and others.

Come the complainants, by their solicitors, and it appearing to

the court here that the defendants, Lewis E. Craig, Joshua M. Craig, and Robert E. Craig, as administrator of the estate of John Anderson Craig, deceased, James S. Peake, and Narcissa P. Peake, have been duly served with process in this cause, and having failed to appear and plead, answer, or demur to the bill in this cause, the same as to them is taken for confessed; and it further appearing, by return upon the process issued in this cause, that the defend-
262 ants, Henry M. C. Brown and Sanford C. Faulkner, Jr., are not found, and, by affidavit attached to said bill, that the defendants, Emma J. Wright, William P. Halliday, Thomas T. Wright, Eliza Wright, Charles S. Moorehead, Silas Price, Mallissa P. Craig, Robert W. Craig, Cyrena Gix, Sarah McCaslin, ——— McCaslin, her husband; Elizabeth Shaefer, ——— Shaefer, her husband; Jane Brown, James Brown, John M. Price, Florida Price, Cyrena Lathrop, Willie Lathrop, Nannie P. Peak, Anderson O'Neal, Walton Craig, Albert G. Craig, Benjamin F. Craig, Edward Brocking, Thomas I. Whitehead, James Whitehead, Charles Ingles, Polly Ann Ingles, Benjamin C. O'Neal, H. S. Kennedy, and other unknown heirs of Priscilla Kennedy, John S. Craig, Mary C. Williamson, William V. Allen, E. Kate Allen, Alexander C. Ferguson, William D. Ferguson, Charles McKinney and Mary Ann McKinney, Benjamin Davis, Martha Davis, John O'Neal, William O'Neal, Mary T. Mason, Bertrand Bledsoe, Thomas L. Beard and Elizabeth Beard, John H. Van Hook and Sarah Van Hook, Caroline Bledsoe, Dora Brown, Annie Bledsoe, an infant child of Enoch
263 Bledsoe, deceased, whose name is unknown; Parmelia Charb, Nancy Flynn, Robert Flynn, Flizabeth Flynn, Lydia Montgomery, Job Bledsoe, Nancy T. Patterson and her husband, Malcom Patterson; Martha Morrow and her husband, Thomas A. Morrow, and other unknown heirs of Lucy Ann Bailey, deceased; Geo. W. Craig, Sarah E. Craig, Gazelle Roberts, Joseph R. Roberts, Edward Eggleston, George Eggleston, William J. Eggleston, Lowry C. Eggleston, George C. Patton, Miles Mendenhall, Nancy T. Mendenhall, George H. Kyle, Tabitha C. Kyle, Alice Craig, DeKalb Craig, Albert G. Hanks, Olive Hanks, Ann S. Hanks, Mildred Hanks, Graves Hanks, Daniel Bledsoe, Georgeana Bledsoe, Samuel Craig, Isaiah Craig, Silas Craig, William Craig, Robert Russell, Sarah P. Russell, Milton Hanks, Dorcas D. Hanks, the infant child, whose name is unknown, of Miles M. Hicks, deceased; John F. McCann, John Hicks, Samuel Hicks, Bruce Hicks, Joseph Craig, Susan Craig, Jordan J. Peak, Leland W. Peake, Dudley P. Peake, Lucinda Craig, and Alexander D. Kelly, are not residents of the State of
264 Arkansas, it is ordered by the court that they be notified of the pendency of this suit, the object of which is to subject the estate of the said Junius W. Craig, deceased, to the payment of his debts, and to remove all incumbrances and impediments therefrom; amd that unless they shall, on or before the fourth day of the next term of this court, appear and plead, answer or demur, to said bill, the same will, as to them, be taken for confessed, and a decree thereon entered accordingly, and to that end that this order be published in the Southern Shield, a newspaper printed and published

in the city of Helena, in this State, for the number of times and within the time prescribed by law, and this cause is continued until the next term of this court.

JNO. McLEAN, *Clerk*,
By JAS. McMURRAY, *D. C.*

A true copy from the record.
Attest:

JNO. MacLEAN, *Clerk*,
By JAS. McMURRAY, *D. C.*

265 At the October term, 1866, of the Chicot circuit court, in chancery, on the 19th day of October, 1866, a day of said term of said court, among others the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG *v.* EMMA J. WRIGHT *et al.*

Comes Lewis E. Craig, a defendant herein, by solicitor, and files his separate answer to the bill of complaint herein.

Demurrer and Answer — Lewis Craig.

The separate answer of Lewis E. Craig as creditor and devisee of J. W. Craig, deceased, to a bill of complaint filed against him in this honorable court to the April term of A. D. 1866, by William W. Frazier and others, claiming to be creditors of the estate of Junius W. Craig, deceased, for answer to so much of said bill and
266 such parts thereof as he deems it necessary and important for him to answer unto, answering says:

That he admits the death of Junius W. Craig, as stated in said bill. He neither admits nor denies the statement of said bill as to who are in law his heirs. He believes he left devisees but no heirs. He believes the allegations in said bill in regard to kind and amount of property owned and claimed by him at time of his death are substantially true, and that it was chiefly located as set forth in the bill. He also supposes the valuation given of said estate is as near correct as any estimate that could have been put upon it at the time. He expressly denies the imputed insanity of the said Junius at his death, or at any time during his life; that this imputation was made and eminently reported for fraudulent purposes, and is now perpetuated by those self styled creditors in collusion with Joshua M. Craig and others, claiming to be heirs at law of the said Junius W., for the purpose of consummating a stupendu*o*us
267 fraud upon the legatees under the last will and testament of said Junius W., and for no other object or purpose.

That it is true said Junius W. made a will on the 17th day of July, 1838, with a codicil, and one on the 16th of June, 1858, but the last mentioned will was to all intents and purposes revoked and cancelled by the former will, as complainants well know. He admits that the contents of both of said papers purporting to be wills *and* correct in the main as given in said bill. He admits that it was reported that a certain paper purporting to be the autographic will of said Junius W. was in existence, but not that it was uncan-

celled; on the contrary, the only rumor in regard to it was that it had, in the lifetime of the testator, been recalled back into his possession for cancellation, and was revoked and cancelled by the making and delivery of his will first herein mentioned, and never had any further or other existence, except in the imaginations of those creditors and certain of the alleged heirs at law, with
268 fraudulent intent and purpose. He does not know whether the contents of this imaginary will are correctly given or not. It is true William P. Halliday and Emma J. Wright were named as executor and executrix in the said will of 17th of July, 1858, and that the same was presented by said Halliday for probate, and was duly probated as charged in said bill. That all persons interested in said will had the legal right to test the validity of said will at any time within five years, but no express protest nor reservation of their rights was made, nor was any necessary, in order to do so.

He admits that said Faulkner and wife filed a petition in the circuit court, but not to test the validity of said will, for the same was filed by the attorneys of record of Joshua M. Craig, and for his benefit, and, by collusion with him, to produce a contest about said will, in order to give the probate court, then in session, an excuse to appoint him, the said Joshua M., administrator of said estate *pendante lite*, and thus defeat the will of the testator, Junius
269 W., and resist the rightful claim of said Halliday to letters testamentary on said estate. It is true said Halliday applied for letters testamentary, and his application was refused, and letters of administration on said estate were given to Craig and Llewellyn a subsequent time, as stated in the bill, from which order of appointment respondent appealed. He believes it is true that said Faulkner and family thereafter filed their bill in this court, and he supposes the general provisions of said bill are correctly set out in the bills now pending, and that all the proceedings had therein, as the same are recited in the bills of complaint, may be true; that the administrators, as mentioned, acted, as alleged, until April term of the court, 1860, when the appeal of respondent was decided, reversing the proceedings of the probate court in refusing letters testamentary to said William P. Halliday, and appointing J. M. Craig and Llewellyn administrators. It may be true that an application was made
270 to have a receiver appointed, but it is not true that J. M. Craig took an appeal to the supreme court, Joshua M. Craig finding himself deprived of the lucrative office of administrator on the estate of Junius W. by the decision of the court upon respondent's appeal in person, and through said John A. Craig and others, claiming to be acting for and representing the so-called heirs-at-law of the said Junius W. Craig, deceased, generally approached this respondent for a compromise, and urged respondent to entertain the proposition, as respondent believed then and now, for the purpose of purchasing under the will all interests in said estate. If the application for a receiver had any influence on the mind of any one, it certainly had nothing to do by way of influence with this respondent. This respondent knew Mrs. Emeline Faulkner to be the sister

of the mother of said Junius W., and his aunt, as such, if the will should be set aside, one of the heirs-at-law in his estate, but
271 not equitably entitled to one cent, as she had already received a portion of said estate of Junius W.'s father through Leland P. Craig, and he expressly denies that in the compromise one cent was ever agreed to be given to her on account of her supposed claim in the fal-acious will mentioned in said bill of 1857. That he was confident that no such will was legally in existence; if there had been, your respondent would have been the owner of Yellow Bayou plantation; but he never attempted to set up any such spurious claim, and he knew Mrs. Faulkner could not; therefore, the allegation, that by the compromise thirty-five thousand dollars was to be paid to Sanford C. Faulkner and Emaline M. Faulkner for their claims under the paper executed in 1857, is utterly untrue, so far as respondent is concerned. Respondent alleges that the claim of said Faulkner stood in no better condition than any other of the presumed heirs-at-law, but that the said Faulkner had been active in his influence to
272 defeat the only legitimate will in existence of the said Junius W., and in this respect had been very useful to said J. M. Craig, and that the said J. M. and J. A. Craig, he supposed, recompensed him for it, and gratui-ously gave him, or agreed to give him, the $35,000.00 mentioned in said bill. That after being repeatedly urged to make or jo n in said compromise by Joshua M. Craig, he representing that he and his brother, John A. Craig, were purchasing for the benefit of the estate, to avoid litigation, and also for the benefit of many of the Craig heirs, who he represented as poor and unable to purchase, (your respondent being himself one of said heirs,) finally agreed to leave it to his counsel, William H. Sutton, to enter in and conclude for him the compromise. That said Sutton, as such, for the purpose of amicable and final adjustment, abated respondents special legacy to the sum of thirty-five thousand
273 dollars, and surrendered his claim as one of the presumed heirs-at-law, and in fact unconditionally sold out to the said J. M. and J. A. Craig his legacy and interest in the estate of J. W. Craig for the sum of thirty-five thousand dollars, upon the further condition and verbal promise by the said Joshua M. Craig, made to said Sutton, that he would pay to your respondent the sum of five thousand dollars, which respondent very much required to secure his home in Missouri, where he then resided with his family. As soon as the compromise was agreed upon, this $5,000.00 was to be credited upon the $35,000.00 assumed by said J. M. and J. A. Craig. This last promise J. M. Craig complied with only in part, and that through the coercive influence of said John A. Craig. The foregoing is the manner in which and the extent to which your respondent participated in said compromise, and it was, so far as he
274 was concerned, as he understood it, a sale, to all intents and purposes, to the said J. M. and J. A. Craig, of his interest as legatee under the will in the estate of the late Junius W. Craig, deceased. He further agreed that the debts of said estate should be first paid. He believes the main provisions of said compromise are

correctly set out in said bill of complaint. He knows but little about the debts of said estate, therefore cannot say whether the statement of the bill in those respects are true or not. He states, upon his information and belief, that, admitting the list of claims probated to be correct, Joshua M. Craig has received and appropriated assets more than enough to pay all the debts of said estate, and he believes, and so charges the fact to be, that the said Kelly's claim, and the said Todd's have been long since paid off in full. That after making the said compromise, by which Joshua M. and John A. Craig
275 became the purchasers and owners of the estate of said Junius W., the said William P. Halliday resigned the executorship under the will of said estate, and Joshua M. Craig became the sole administrator thereof with the will, as stated in said bill, and has continued in the uninterrupted possession of the same ever since. Respondent knows nothing about the transfer of the claims of A. D. Kelly & Co. to the complainant Frazier. He charges that if any such transfer has been made, it has been done without any consideration to many creditors, and the said Frazier takes said claims subject to all existing offsets or equities which this respondent has or had against the said Kelly in virtue of his lien on the property of the estate of Junius W. Craig in the hands of Joshua M. Craig. This respondent expressly charges the fact to be that Junius W. Craig in his lifetime placed a large amount of bills receivable in the hands of
276 said A. D. Kelly & Co. as collateral security for the payment of his debt to said firm. That the amount so placed in their hands as collateral exceeded the sum of one hundred thousand dollars, as he is informed—twice as much as was due and owing from the said Junius W. to said firm. That the bills receivable thus pledged were in the nature of an equitable mortgage for the payment of the debt due to said firm in particular. They were special security pledged by the testator for the purpose, and never disturbed or otherwise interfered with by the said Junius W.'s testator as aforesaid. The said Kelly must first show to this honorable court what disposition he has made of this special fund in his hands, and on which he had a lien for the payment of his debt, before he will be allowed to come into this honorable court, and in manner expressed in said bill subject other property to the payment of his imaginary claim. This respondent expressly calls upon the said Frazier,
277 as such assignee, and upon the said Kelly to make a full exhibit of those claims placed in their hands, as aforesaid, and by means whereof said Kelly's claim was fully paid, before he pretended to transfer the same as in said bill mentioned and whereby said Frazier took nothing by his said transfer. This respondent, further answering, saith that the said Frazier — is a court of competent and convenient jurisdiction, to wit, the probate court of Chicot county, in which the said claim in favor of said A. D. Kelly & Co., in which said Frazier claims now to hold as assignee, was classed and ordered to be paid, in pursuing in the name and by the aid of said Joshua M., his remedy, and enforcing the collection and payment of said claim by an order and decree to sell the Bellevue plantation, which is worth two or three times the amount of

his claim, a copy of which proceedings will in due time be filed, and asked to be considered a portion of this
278 answer. This respondent submits that the said Frazier, having a full and complete remedy in another court, has no right to be further heard in this honorable court, especially while he is pursuing said remedy in the other court. The claim in favor of the said Wilmott's estate is secured by mortgage upon certain lands taken to secure the same by the said Wilmott in his lifetime, and proper steps have been taken by the said Samuel B. Newman, executor, in this court to purchase such mortgage, and enforce the collection of said claim in and by due process of law, and therefore said complainants had no equitable right to come into this honorable court [and] by this bill are not entitled to the ——; therefore, as to the said Newman's claims, respondent asks this honorable court to dismiss it with ——. As to the claim in favor of the
279 estate of Hosea George, this respondent further showeth unto your honor that it has been allowed, classed, and ordered to be paid in the probate court, but since then the said Joshua M. Craig has by certified copy transferred the same to Memphis, in the State of Tennessee, and set up as a claim against property belonging to the estate of Junius W. Craig, for the purpose of defeating the claim of Emma J. Wright, who, by terms of the compromise, has an equitable lien on said property. And the said Joshua M. is using said claim himself to defeat the compromise he made in good faith, it was supposed; therefore, this respondent submits that complainants have no equitable claim upon the jurisdiction and protection of this court for the claim last mentioned, when the remedy is complete in the probate court, and property in Memphis and State of Tennessee sufficent to pay the same. The debt due said William H. Todd was contracted by the purchase of his interest
280 in the Yellow Bayou plantation, and the said Todd reserved a lien on all of said property by mortgage, and is now prosecuting his special lien and foreclosing said mortgage in order to force his claim and collect it without any regard to the interests of said estate. And this respondent further charges the facts to be that said Joshua M. Craig, as he is informed and believes, is aiding and encouraging the said Frazier, Newman, and Todd, and, in collusion with them, intending and trying to ruin the estate of said Junius W. by having the valuable property belonging to said estate sold under unfavorable circumstances, at a time when from the great destruction of property and convulsion of —— resulting from the war, there is very little money in the country. Your respondent admits that said Todd, in the action now pending, has no right to be heard, he has no cause of action. His claim is anterior to the com-
281 promise, not affected by it. His remedy is complete in another and different proceeding, and he is pursuing it. Wherefore this court will not entertain his false claim interposed, as respondent believes, to and in fraudulent purposes and designs. In regard to the claim of Joseph S. Woolfolk and Lucy his wife, mentioned in complainant's bill:

The records and proceedings in this court in the original bill filed

by Joshua M. Craig and others against this respondent and others show that the property belonging to the estate of Junius W. Craig, deceased, in Kentucky, is worth more than seventy-five thousand dollars. They also show that the same has been subjected to the claim of said Woolfolks, and in the bill of complainant's it is made to appear that the unsatisfied demand of said Lucy D. Woolfolk at the death of said Junius W. was fifty-eight thousand seven hundred and twenty-five dollars sixty-four cents ($58,725.64), on which twenty-five
282 thousand dollars ($25,000) had been paid, leaving a balance of about thirty-two thousand seven hundred and twenty-five dollars sixty-four cents ($32,725.64) unpaid, to which is to be added the sum of $3,426.00, making $36,151.64, which said claim is fully, according to their own showing, paid off, and a balance over, exceeding thirty thousand dollars. Respondent refers to the bills on file in this court and proceedings thereon, and will in due time file copies thereof.

Wherefore respondent submits that the said Woolfolks and their claims should be dismissed with costs from all further considerations of this honorable court. Respondent further showeth unto your honor that the claim of said Woolfolks has been probated, classed, and ordered to be paid in the probate court of Chicot county, and nothing has ever prevented the payment of it but the fraudulent conduct of Joshua M. Craig, as administrator as aforesaid,
283 and that in this, as in the former claims mentioned, he is in collusion with the creditors, trying to destroy said estate. He charges that this entire bill of complaint has no other object or intention than to aid said Joshua M. in evading his undertakings and engagements in the compromise, and to assist him in consum-ating his wicked and fraudulent intentions to cheat and defraud this respondent out of his legacy or devise and interest in the estate of said Junius W., deceased. Respondent knows nothing about the minor claims of Leland W. Peake and R. A. Gordon but what is of record. They may be just, if so they should have been paid long since, and he supposes they are only pretended now to give countenance and support to the main object of those bills which is fraud. Respondent admits the filing of a bill by said Joshua M. Craig and John A. Craig, and charges that the main object for so doing was to quiet their fears, and render more effectual the intentions and pur-
284 poses contained in the compromise. But that proceeding, he is advised, was wholly unnecessary, as no one seriously intended to interfere with the compromise, nor did any one, so far as respondent knows, ever threaten to do so, until the bad faith of said Joshua M. became manifest. He does not admit that Emma J. Wright was not bound by the compromise as alleged in said bill. The plea of infancy is a personal plea, and the complainants have no right to interpose it, or assume to make it for said Emma J., besides she does not make it herself, on the contrary, now, when of full age or legal responsibility, she affirms the compromise in all things, and asks the court to enforce the same. The complainants have no right or authority to speak for the City of Helena. She employs her own counsel and has been represented, and respondent

asks the court here in this particular to interfere, tho' humbly but reasonable duty of requiring every one to mind their own business. Respondent does not admit the ar-ogant assumptions
285 contained in said bill, to the effect that the decree touching the compromise, by consent of parties, is void and of no effect, and denies the right of complainants to set up or insist upon any such grounds, as they were not parties to the compromise, as the operation of said compromise in no manner impaired or interfered with their rights as creditors, but respects and protects all their rights; in an accumulative sense they are benefitted by it, and have no right to be heard in opposition to it in any sense. The object of the sense of law is to collect facts or to ascertain the true intention of the parties in their various transactions with each other; and if the court has jurisdiction of the subject-matter it can decree anything that is lawful by the consent of parties, and it can make any and all decrees, and they are binding on all parties consenting thereto, and cannot be set aside by any one having no —— of interest, and consequently no right to be heard; wherefore this portion of complainant's bill is not only inequitable but im-
286 purtenant. If any person interested in the subject-matter of said decree was not represented, he or they have the right to object and insist upon their day in court *Ne inauditus condemnitur* applies in equity as in law, but these complainants, as creditors or third persons, have no right hypothetically to set up any such matter in their bill of complaint. The decree confirming the compromise was and is binding and final as between the parties appearing before the court, agreeing and consenting thereto, and as in that instance invoking the aid of the court to confirm their transactions, and they will not be permitted to gainsay the same, or trifle with the court, nor will third persons be permitted to do it for them. Individuals by their own transactions make the law that govern their transactions; the court pronounces the law applicable, and the law thus invoked and pronounced will admit of no contradiction. The record of the court in this respect is not false as alleged
287 in said bill, but true; by the consent and agreement of the parties, just such mode of trial was chosen, and the court having jurisdiction had the power to confirm it, and did so confirm it, and it is complainant's bill that is false and important in this respect, and not the proceedings and decree of this honorable court on the law side thereof.

Respondent believes it is true Emma J. Wright and City of Helena answered said bill, affirming and asking for the execution of the decree of compromise, and Eveline M. Faulkner did likewise affirm it by answer; and if any of the heirs answered repudiating the same it, raises no presumption against the validity of decree, but the hypothesis is presented that —— is an additional right to be examined and determined, and the legal presumption is that the antecedent proceedings of the court would derive strength by future investigation.

288 Respondent therefore submits that all this portion of complainant's bill is fal-acious, inequitable, and impurtenant.

Respondent admits that the war interfered in man-er as charged in said bill, but the effects are highly exaggerated in said bill. He will not attempt to controvert them, as they have no material bearing upon the case. He does not admit that two thousand and seventy-eight bales of cotton of the estate was ever burned by the Confederate and military authorities; on the contrary, complainant is informed that a considerable portion of the crop of that year was sold, and other portions of it secreted from the Confederate authority by Joshua M. Craig, and subsequently sold by him at great profit; he therefore calls on complainant to make full proof of the allegations of their bill in this particular. He admits that the effects of the war incapacitated said Joshua M. Craig, commission merchants, and business men generally from keeping
289 their engagements. He feels the full force and effect of that excuse, and has always been ready and willing to meet the same in a spirit of justice and liberality; but he denies the right of complainants to set up this general calamity, effecting all classes alike, as a special ground for invalidating just and legal contracts and engagements, and impeaching the integrity of courts and individuals, in a spirit of evasion, insecurity, and fraud, as seems to be the purport and intent of this bill of complaint.

He admits John A. Craig is dead; and he further admits that Joshua M. Craig and Robert E. Craig, claiming to act as administrator- on the estate of John A. Craig, have filed their bill, calling it a bill of revivor and supplement, and in said bill they pretend to insist that Emma J. Wright has violated the said compromise and rendered it impossible of execution, and many other allega-
290 tions wholly inapplicable to this respondent.

This respondent submits that his rights in said compromise are in no sense subject to the control of Emma J. Wright, or any one, except the court and himself; that Emma J. Wright has nothing to do with his rights, and her conduct in no manner affects them. It is not a matter of importance to him what she may have done. There is no community of interest, no copartnership existing between them. This might suffice as being responsive to all that portion of the bill of complaint as regards this respondent; but as Emma J. Wright in this instance is intended for other and different purposes than that presented, respondent will fully reply to said bill in this respect. It is not true, as charged in said bill of complaint, neither in point of law nor fact, that Emma J. Wright ever violated the provisions of the decree of compromise. It is expressly provided
291 in said decree that the several sums to be paid to Emma J. Wright and the city of Helena should be and remain a lien and charge on all the property and estate of said Junius W. Craig, real, personal, and mixed, slaves, and choses in action, until fully paid. It is true the court in Arkansas had no extra-territorial jurisdiction or force, but it *prima facia* created an equitable lien upon the property of said estate situate in the States of Tennessee and Kentucky. It at the same time in like manner gave the heirs of said estate, on the maternal side, an equitable title only to the property in said foreign States. Wherefore, the equities as between said heirs, last men-

tioned, and Emma J. Wright, were equal so far as compromise decree was concerned, and where said heirs, in the city of Louisville, and State of Kentucky, invoke the aid of a court of chancery, in conformity with the provision of said compromise decree, to perfect their title to said property and necessarily make her a party,
292 she had the undoubted right, alike with said heirs, to ask the court to shield and protect her equitable lien. Being a necessary party to the suit, and her lien appearing among the facts requisite to give the court jurisdiction, the court, without any overt act on her part personally, was under a judicial necessity to notice and give force and efficacy to her equitable lien, thus involuntarily, so far as she was concerned, inherent in the proceedings before the court. Emma J. Wright, therefore, appeared in the court of Kentucky in the suit to perfect title to those heirs in conformity with the said decree of compromise, not for the purpose — defeating said compromise, but as a party necessary to carry it into execution; not voluntarily, but from judicial necessity. How fal-acious, how unjust, how fraudulent, untruthful, and perverse, are all the allegations in this bill of complaint in this respect, notwithstanding they are all solemnly
293 sworn to by Joshua M. Craig. But it is craftily stated in said bill, that it was understood and agreed that she, Emma J. Wright, was to be paid out of the property of said estate situate in Arkansas, and the property in Tennessee and Kentucky was to go to the heirs last aforesaid. This was contract between said heirs and said Joshua M. Craig, to which said Emma was not a party, and was not bound as against her equitable lien. Her right in said property was created by the will of the testator, was anterior to the right or claim of the said heirs, who obtained their right or lien by and through Joshua M. Craig and John A. Craig after the will was fully established.

In view of this primary right of Emma J., it was provided in the decree of compromise that her lien should be and continue upon the entire estate of said Junius W. Craig, and that all right or claims subsequently created in or to said estate, or any part thereof,
294 being subsequent to her right and lien in point of time, should be subsequent and second in law and equity. The law made it so. The heirs attained after the will was established all the title the —— had from Joshua M. and John A. Craig, who held by purchase under the will. Their contract was in law and fact with them; and if they failed or refused to remove subsisting liens on property sold by them, of which lien said heirs had due notice at the time of purchase, and they can complain of Joshua M. and J. A. Craig, and of them only; against them they have redress, and them only; and the said Joshua M. and John A. Craig themselves, the delinquent party, first, in not paying Em-a J.; secondly, in not notifying and removing liens from property sold by them for valuable consideration, will not be listened to in a court of equity, because they came in with their hands stained with infidelity, insincerity, and fraud, and a badly concealed intent to mislead and deceive this honorable court. Wherefore, in point of law, the
295 charge that Emma J. has violated said decree of compromise

is deceitful and fal-acious. The same law and facts apply to and govern and direct said Emma J.'s conduct in the suit referred to in Memphis, Tennessee, and the foregoing answer applies with equal force, and your respondent prays it may so be taken and considered upon the trial of this cause. This respondent, in answer to the repeated allegations contained in said bill of complaint respecting the right of the city of Helena, respectfully submits that these compl't-, as creditors of Junius W. Craig, have nothing to do with the business of the city of Helena, or the compromise either, and they have importunely and improperly intrusted these questions upon the consideration of the court. The claims of the creditors in point of time are anterior to the death of the testator, not affected by any will he could make. The claim of Emma J. and your respondent grow out of the will. The compromise is the creature of the will, between the legatees and third outside parties. The said Junius W. Craig left no heirs-at-law. These are entirely spurious, have no legal being.

296 The legatees or devisees can do nothing to impede the rights of their creditors, complainants; not one dollar of the estate is in the hands of the legatees or devisees, nor do they claim a dollar adversely to the *to the* rights of the creditors, only where some of the creditors have in fraudulent collusion with said Joshua M. Craig; but their claim as against said estate, and now attempting wrongfully to receive and set it up again, against said estate, in fraud of the legatees, are they in opposition to said creditors. In a bill to marshall assets, in favor ———, the chancellor will follow them wherever they may be found. There is no allegation in said bill that any assets are in the hands of respondent or any of the legatees; but the bill does show that eight hundred thousand dollars of assets have been and are in the hands of a delinquent administrator, and not one word of complaint as to said administrator is contained in said bill, but seeking apologies for his flagrant maladministration and inexcusable delinquencies of said Joshua

297 M. Craig, thereby rendering the intent and purpose of the bill, which is to assist said Joshua M. Craig in evading his duties and obligations, voluntarily assumed by him under the compromise, as well as the fraudulent collusion of these creditors, painfully manifest and obvious to this honorable court.

This respondent admits, as is alleged in said bill, that the creditors —— paid. He admits the allegation in said bill that the estate is still solvent; but he expressly denies all the deductions in said bill that the controversies in regard to any or all of said wills ever embarrassed the payment of debts, for in a few months after the testator died administration was commenced on said estate, in conformity with the wishes of these creditors, complainants; and this respondent never did, nor did any of the legatees, ever place any obstructions in the way of administrator's paying debts. The litigation and interminable contests complained of in said bill are entirely outside of the business and interests of these

298 complainants, except so far as these complainants, in fraudulent connivance and intrusted negotiations with the said

Joshua M. Craig, have expressly allowed their claims to be used by him to defeat the rights of respondent and legatees under the will, and now under the compromise. He denies that the disputes of complainants were ever permitted to clash with or interfere with the interests of these complainants as creditors, and he calls upon them to show in a single instance when they ever did anything to embarrass the administrators in the disposal of any or all assets belonging to said estate to the payment of just debts. The burthen of the allegations in this respect are shameless perversions of truth, intended and designed to mislead the mind of this honorable court from the guilty conduct and maladministration of Joshua M. Craig, for whose justification, benefit, or relief this bill was filed. Each of said complainants are in other tribunals and courts of competent jurisdiction pursuing their adequate remedies, as if no bill, no
299 compromise, and no controversies had ever arisen or were now pending, nor would any suit be now pending, nor any controversy ever have arisen, only by Joshua M. Craig, respecting this estate from first to last. He first interfered and opposed the wishes of the testator, by taking possession of the testator's estate while he was on his dying bed in the city of Louisville and State of Kentucky, without any authority; and after his death when his executor came forward to carry out the will of the deceased, said Joshua M. Craig, by the aid of Sanford C. Faulkner, Emaline M. Faulkner, and their family, who had been invited, as respondent is informed, by the testator in his lifetime, to visit as guests, retained possession of testator's domicil and all of said estate before the will had ever been propounded for probate, and before any administration had been granted. And afterwards, in direct opposition to the testators, with the aid and assistance of Mr. A. D. Kelly, assignor of complainants
300 Frazier and Todd, and complainants Woolfolks, applied for letters of administration on said estate, when the said Faulkners, ever ready to promote the interests of said Craig, and for which respondent is informed they received thirty-five thousand dollars, came forward and filed their pretended bill to contest the validity of said will, on the common-law side of the court, and thus presented a contest in appearance, upon which pretext said Craig and Llewellyn were appointed administrators *pendente lite*, contrary to all law and precedent, from which order of appointment this respondent appealed.

On the trial of this appeal, your predecessor in this honorable court dismissed said administrators with judicial indignation from the control of said estate. The said Joshua M. Craig, then joining with his brother, John A. Craig, induced this respondent and others, legatees in good faith, to sell out to them their interest under the will, and make the compromise hereinbefore referred to; said Joshua M. Craig then became, by virtue of the will, administrator on
301 said estate, with the will annexed, and has continued to control all the business of said estate up to the present time without interruption from any source, so far as respondent is advised. He has not been prevented from the payment of all just debts, nor has the respondent nor any of the devisees, except Emma J. Wright,

directly or indirectly ever invited controversy or litigation in any instance, and he charges that he never brought into court against his will, at great expense, to defend this suit, which is brought for no other purpose, as he believes, than to assist said Joshua M. Craig in keeping respondent out of his legacy, and to assist and allow said creditors to sell all the valuable lands belonging to said estate for their benefit, as well as the benefit of said Joshua M. Craig, jointly. This respondent, further answering, saith that the said Joshua M. Craig has repeatedly affirmed the compromise in all respects by his acts since the making of it, and he never contemplated giving
302 it up until his own laches, bad and wasteful management; also the various results of the war. He awoke from his dreams of imaginary wealth, and saw the id-le of his heart—the large possessions of Junius W. Craig—vanishing and perishing in his grasp. He then superinduces the litigation complained in said bill, but improperly and without any regard to truth, charged in said bill by these creditors to respondent and other devisees under the will, and now bolstered up by this creditor's bill, which is a well written paper, giving the history of an old lawsuit, as well as the workings and machinations of the human mind to evade an honest contract, entered into voluntarily for good consideration; and now, when it has failed to meet the expectations of said John M., he hesitates not by means lawful and unlawful to set it aside, by asking the court to revise their own proceedings, ruining said estate and all the devisees, and destroying the large and valuable estate given to charitable and benevolent uses; and the only apparent
303 object is to relieve said Craig, especially as he has the cream of the estate. Now, since *since* he feasted upon the flesh he is willing to surrender the carcass and give up the administration. Your respondent asks respectfully at the hands of this honorable court for protection against such high-handed, monstrous fraud and iniquity. This respondent, further answering, shows unto your honor that on the 16th day of October, A. D. 1861, the said Joshua M. Craig, in answer to a writ of garnishment issued from the law side of this honorable court, admitted on oath he was owing this respondent under the compromise about thirty thousand dollars, and on the 17th day of October, A. D. 1861, judgment was rendered against said Joshua M. [Craig] on his said answer for the sum of eleven hundred and seventy-five dollars in favor of one Abner Gaines, who claimed to be a creditor of this respondent. A certified copy of said answer and said judgment are herewith filed, and prayed
304 to [be] considered as a portion of this answer (Exhibit A). Said Joshua M. has continued to act as administrator with the will annexed of said estate under and by force of said compromise ever since the filing of his bill, 16th October, 1861, and still continues so to act, thereby confirming and ratifying said compromise. That since the filing of said bill he has sold all the personal property belonging to said estate, but has not paid all the debts, without authority of law and contrary thereto. With money belonging to said estate he has purchased real estate in Drew county in his own name, and in some instances paid for it with Confederate

money, worth about 50 cts. on the dollar, and since the revulsion in society and depreciation of the value of property he has gone into the probate court of Chicot Co., Arks., and asked and obtained permission to convey this real estate so purchased to the heirs of said estate. This real estate is of but little, if any, value now. Nevertheless said Craig has fraudulently obtained a credit as against
305 said estate in probate court for the nominal cost of this land in par funds, thus converting good property of said estate into money, consisting thus in lands, in his own name; when it by force of circumstances ceases to be of any value, turns it over as cash to said estate and puts the money in his pocket. Certified copies of this proceeding will be filed [as] soon as the clerk can furnish them, and asked to be taken as part hereof. Respondent submits that said Joshua M. by his own acts is estopped from resisting said compromise, and by his own acts shows he is unfit to be trusted with said administration, is precluded from the relief sought for him by the said creditors in their bill, and his fraudulent conduct precludes him from the relief he asks for himself, so far as his solicitor has incorporated the bill of revivor and supplement in said creditor's bill.

On the 12th day of February, 1866, said Joshua M. obtained an order to sell the personal property of said estate to pay debts, an account of which sale is herewith filed, marked Exhibit "C,"
306 by which 46 mules sold for about $48 69-100 each; oxen, cows, farming utensils, &c.,&c., all at about the same rate, all purchased by said Robert E. Craig, co-complainant with said Joshua M., all of which personal property, thus sacrificed, is in the possession and employ of said Joshua M. and working for him, as respondent is informed. Said Joshua M., after this property is converted into money, in his report, coolly tells the probate court it will in the future be required to pay taxes, and puts the money in his pocket. The whole transaction, if not *per se*, fraudulent and void, leaves a strong presumption of fraud. Mules, at the time of said sale, were worth in this community from one hundred and fifty to two hundred dollars each. Said Joshua M. shows in his bill that he has been for a long time in possession of bonds, bills, and notes, evidences of debt to the amount of one hundred and twenty-one thousand six hundred and fifty-nine dollars and fifteen cents, and the probate court record shows that he has by order of said court lawyers, at the expense of said estate, employed in his administration
307 business; still these choses in action have not been reduced to possession. No excuse for this delay is given, and no effort made until lately to make this large sum useful to said estate. Respondent says in consequence of this negligence he should be charged with this sum, and he and his bondsmen made to pay it.

Respondent further submits that in complainant's bill not one word of complaint is made against this delinquent administrator, who has so grossly neglected his duties, and who alone is to blame for keeping them so long out of their money, if indeed it be true that they have not been already paid. The whole drift of the creditor's bill is against the parties under the compromise, other than Joshua M. Craig, and is clearly in his interest, and filed by said

creditors in collusion with him. He charges that these choses in action were once nearly all good, but by the delay and negligence he fears most of them are lost to the estate, and this loss is undoubtedly chargeable to the maladministration of said Joshua M.

308 Your respondent, further answering, showeth that on the 30th day of April, A. D. 1859, Joshua M. Craig and John R. Llewellyn, as administrators aforesaid, filed a certain petition with their affidavit appended, in the probate court of Chicot county, in which they show that Junius W. Craig in his lifetime was indebted to A. D. Kelly & Co. in the sum of forty-five thousand six hundred and seven $\frac{76}{100}$ dollars, and that at the time *and* said debt was contracted said Junius W. deposited as security for the same, and that A. D. Kelly & Co. accepted and then held as subject to therefor the security of the payment of the same seventy-five or eighty thousand dollars of good paper belonging to said Junius W., and that this security was still in their hands, except a portion thereof, which said firm had collected or reduced to possession; that they, the said petitioners, as administrators aforesaid, had in their hands at that time the sum of fifty thousand dollars belonging to said estate unappropriated; that it was important for them as

309 administrators, for the benefit and protection of said estate, to get possession of the large amount of assets thus in the hands of said A. D. Kelly & Co.; that said firm had a lien on these assets for the payment of their $45,607\frac{76}{100}$, and then petitioned said court to place said claim in the third class, on a par with judgments rendered against deceased in his life (an act wholly illegal). They then prayed the court to order them to pay said claim to A. D. Kelly & Co. with the funds in their hands at that time, on the condition that said firm could deliver to them as administrators all of the assets so held as aforesaid in their hands, free from said lien. The court being fully advised as to the wishes of petitioner, and the interest of A. D. Kelly & Co. (but totally disregarding the law), inserted said claim in the 3rd class of claims against said estate, and ordered said administrators to pay it immediately to said firm, interest and debt, on the condition only that said assets so held by said firm in manner aforesaid should be given up and pass legally and fully

310 into the hands of John R. Llewellyn and Joshua M. Craig, as administrators of said Junius W. Craig, as assets belonging to said estate, free from all liens or claims of said Junius W.

This claim was inserted in 3rd class for the benefit of A. D. Kelly & Co., and that at that time and at other times before and afterwards said firm had in their possession cash proceeds of cotton belonging to said estate more than sufficient to pay their debts. This was a proposition by the court and administrators to pay A. D. Kelly & Co. their debt, out of funds in hand, on condition they would surrender the security placed in their hands by the testator. A. D. Kelly & Co. were under no compulsion to accept, but they did voluntarily accept of said proposition, and gave up the assets in their hands. This was a payment of his claims as *as* against the estate of Junius W. Craig. If these administrators deceived or defrauded said firm, and procured the delivery of said assets to them, without pay-

ing said firm their debt, it was owing to confidence by
311 said firm misplaced in said administrators, an act independent and voluntary on their part; and if loss or injury has accrued to said firm, they must positively bear it as best they can, because the law will not relieve them from the consequences of their own folly and credulity.

The law will not redress or punish gross violations of duty, but it will not cure all the evils or redress all the wrongs to be found in human society. If A. D. Kelly & Co. did not get their debt when they gave up their assets sacredly placed in their hands by the testator, and especially after the court ordered him to be paid as the condition of giving up these assets, and prior to their so doing, it was their own fault. If he compromised with said administrators in any manner, or made any subsequent arrangement with them, he must look to them. They may in a court of chancery pursue these assets, thus giving up, if they can find them, and establish fraud on the part of the administrators in getting possession of them;
312 but they have no claim on said estate. The testator has settled and secured A. D. Kelly & Co.'s debt in his lifetime. They had accepted said security and pledge; they had then no claim against said estate until they made it appear that their debt could not be realized out of the security so accepted. Then they had first to surrender all these assets so held by them before they had any right to come into the probate court as creditors of said estate while they held these assets for their debt, being double, or nearly double, the amount of their debt. They were *prima facie* debtors, and not creditors, of said estate.

After giving up these assets, not on the condition their claim should be allowed, for it was allowed and ordered to be paid, but on the sole condition as a condition precedent that it should be paid, the allowance and insertion of said claim in the 3rd class was made to enable the court to order its payment. The administrators showed by their petition they were cash assets in their hands
313 ready to pay it. They made solemn oath that they desired to pay it. The court ordered them so to do; and by said order judiciously appropriated so much of said estate as was necessary to pay it. Said A. D. Kelly, being a party to the record and represented by attorney, was bound by this proceeding. Their debt is paid, or was paid in April, A. D. 1859. A. D. Kelly & Co. on the 18th day of December, A. D. 1865, the date of the assignment to complainant Frazier, had nothing to assign; Frazier took nothing as against said estate by said assignment.

This suit in this instance is a false claim, and should be dismissed with costs. A certified copy of all which proceedings are herewith filed, and prayed to be taken and considered a part of this answer, marked "Exhibit C."

This respondent expressly charges the fact so to be that if said Fau-kners have any claim whatever, it is against Joshua M. Craig individually for services rendered to him in defeating, as
314 far as they could, the will of testator. That even by the compromise they are not included as heirs on the maternal side,

because they professed to make said Joshua M. Craig pay them promptly when their services were rendered. The allegation contained in said bill that they were to receive $35,000.00 for a supposed claim grown out of the imaginary will of 1857, is, so far as this respondent is concerned, utterly fallacious and false; and if said Joshua M. Craig agreed to or did pay this sum or anything upon this imputed will, he acted for himself alone, and this respondent, the estate and legatees are in no manner concerned about it. That the setting forth of the claim of Peak & Goodloe in said bill of complaint is unauthorized. Their claims had been allowed and ordered to be paid, and their attorneys who are attending to them know their recourse is against the delinquent administrators and their bondsmen, and not against the estate. He submits that no order of payment could be made until
315 the administrators showed assets in hands; and when the order to pay was made, it was in the nature of a judgment against them in their individual, and not representative, capacity. If they failed or refused to comply with said order, the estate by that order is released; and if the administrators can account for the assets, they have a claim back upon the estate, but not until the claim which was ordered to be paid has been satisfied by them. The Woolfolk claim is in like condition, and is also in process of payment out of property in Kentucky. The George claim against the property in Tennessee, he expressly charges, upon his information and belief, that all these complaints, or nearly so, all in this court, either by collusion with Joshua M. Craig, to aid him in avoiding the responsibilities he voluntarily and for good consideration under the compromise, or else they are in this court in said bill without their knowledge or consent by Craig, J. M., and others.

316 Respondent will, as soon as the clerk can furnish them, file certified copies of these allowances, and ask them to be considered as part of this answer. The entire litigation and expenses, trouble, and controversy respecting the estate of Junius W. Craig was assumed and is now being perpetuated by Joshua M. Craig and others under his influences, and he submits that the least possible punishment for this inexcusable conduct *we* be to hold him to a faithful performance of his contracts and agreements, which, by this bill, by all manner of devices he is aiming to avoid. He prays your honor that the compromise may — affirmed, if it requires all the estate to pay the just debts; as a legatee he says let it be so legally appropriated, but let this iniquitous bill be dismissed at complainants' costs.

This respondent now prays your honor that this answer in its entirety may be deemed and considered as a demurrer to said bill in all its facts, as fully and to the same extent as if he had
317 specially demurred to the same in common form, and he therefore hopes he may have the same benefits as if he had demurred to complainants' bill *bill* in manner and form aforesaid, and relies upon the specifications contained in said answer as special grounds of demurrer.

And this respondent will ever pray, as in duty bound, &c.

LEWIS E. CRAIG.

STATE OF ARKANSAS:

In the Circuit Court of Chicot Co. At the Oct. Term, Oct. 17, A. D. 1861, 4th day.

Among others the following proceedings were had:

ABNER GAINES
v.
LEWIS E. CRAIG. } Attachment.

Comes said plaintiff and tenders his bill of exceptions, and in pursuance of lease given, and prays that the same may be signed, sealed, and made part of this record, which is now accordinly done. And it appearing to the court from the answer of
318 said garnishee, Joshua M. Craig, that he is indebted to the defendant in a larger sum of money that that recovered by the plaintiff in this suit, but that the same is not yet due, it is therefore considered that *that* said plaintiff have and recover of and from said garnishee, Joshua M. Craig, the sum of eleven hundred and seventy-five dollars, the amount of the judgment of the plaintiff against said defendant, Lewis E. Craig, with interest on said sum at the rate of ten per centum per annum, from this day till paid; also all costs by said plaintiff in this suit paid, laid out, expended, &c.

But because it appears to the court that the debt of Joshua M. to said defendant is not yet due, it is ordered that no execution issue herein till the further order of this court.

STATE OF ARKANSAS, *County of Chicot:*

I, John MacLean, clerk of the circuit court for said county,
319 hereby certify that the foregoing page and this page contain a true and correct copy of a judgment against said Joshua M. Craig, as garnishee in above-entitled cause, as the same appears of record on page 285, book F, of the records of the circuit court, now in my office.

Witness my hand and the seal of said court, at office, this 8th day of October, A. D. 1866.

[SEAL.]

JOHN McLEAN, *Clerk*,
By J. McMURRAY, *D. C.*

Duty stamped.

STATE OF ARKANSAS, *County of Chicot.*

Chicot Circuit Court. October Term, A. D. 1861.

ABNER GANIS
v.
LEWIS E. CRAIG, Defendant, and J. M. CRAIG, Garnishee.

Comes said garnishee, by attorney, and for answer to the inter-

rogatories filed in this cause, states: That he is, under the
320 compromise heretofore made with the heirs of Junius W. Craig, indebted to the said Lewis E. Craig in the sum of about thirty thousand dollars, but that said sum is not due, nor will any part thereof be due until all the debts of the estate of Junius W. Craig are liquidated.

(Signed) J. M. CRAIG.

Subscribed and sworn to before me, this 15th October, A. D. 1861.

(Signed) B. F. STEVENSON, *Clk.*

Endorsed: Filed in open court Oct. 16, 1861. B. F. Stevenson, cl'k, by J. M. Bliss, D. C.

STATE OF ARKANSAS, *County of Chicot:*

I, John McLean, clerk of the circuit court of said county, hereby certify that the foregoing is a true and correct copy of the answer of Joshua M. Craig in the above-entitled cause, as the same is taken from the original papers on file in my office.

321 Witness my hand and the seal of said court, at office, this 8th day of October, A. D. 1866.

[SEAL.] JNO. McLEAN, *Clk,*
By J. McMURRAY, *D. C.*

(Duty stamped.)

Claim for Classification.

STATE OF ARKANSAS:

In the Probate Court of Chicot County, Arks., at the April Term, April 30th, 1859, 4th day, among others the following proceedings were had:

A. D. KELLY & Co. *vs.* EST. J. W. CRAIG, Dec's'd.

On this day was presented to the court the petition of John R. Llewellyn and Joshua M. Craig, administrators of the estate of Junius W. Craig, deceased, with their affidavit appended, setting out, in substance, that said deceased in his lifetime contracted with said firm of A. D. Kelly & Co. an indebtedness amounting in the aggregate to the sum of forty-five thousand six hundred and seven
322 and $\frac{76}{100}$ dollars; that said indebtedness had been duly probated as a claim against said estate, and had been presented to and allowed by said administrators; that on or about the time when said debt was contracted said deceased deposited with said firm of A. D. Kelly & Co., as collateral security for the payment of said debt, claims, bills, bonds, notes, and evidences of debt amounting to the sum of seventy-five or eighty thousand dollars; that the said collaterals are still in the hands of said firm, excepting such of them or such part thereof as have been paid and accounted for by said firm; that since or a short time previous to the time when said petitioners were appointed administrators of said estate, one Lewis E. Craig received letters of administration on said estate from the proper

court in the city of New Orleans, Louisiana, basing his pretensions for said letters on a receipt given by said firm for said collat-
323 erals, &c., &c.; that said bills, bonds, notes, and evidences of debt were made by divers persons to said deceased for lands sold to them lying in the State of Arkansas, &c., &c.; that there is at this time in the hands of said petitioners about the sum of fifty thousand dollars; that the estate is deeply involved in debt; that, owing to the recent heavy floods in the Mississippi river, and the consequent depreciation in the value of bottom lands, it would be very prejudicial to the interests of said estate if the large landed interest of the estate should be forced into market at this time to liquidate the claims against said estate, amounting to some two hundred and fifty or three hundred thousand dollars; that it will appear to the court a matter of no little importance that said petitioners should be able to get possession of said collaterals and proceed to collect the same at the earliest possible day; that said firm has a lien on said col-
324 laterals to secure the payment of said claim of forty-five thousand six hundred and seven $\frac{7}{100}$ dollars, and submit to the court to determine whether said claim of said firm should be classed in the the third class of claims against said estate, or in the fourth class, and praying the court to class said claim in that class of claims which may in the opinion of the court be the proper one. And further praying the court to order said petitioners to pay said claim on condition that said firm can deliver up to them all of said collaterals remaining in their hands free from any and all liens or incumberances of any kind or description whatsoever, and for such other and further instructions in the premises as the court shall seem meet, &c. And the court being fully advised in regard to the matters and things contained in said petition, and it appear-
325 ing to the court that said claim was duly probated on the 12th day of January, A. D. 1859, presented to and allowed by said administrators on the 26th day of April, A. D. 1859, and filed for classification on the 26th day of April, 1859, it is therefore ordered that said claim in favor of said firm of A. D. Kelley & Co. for the sum of forty-five thousand six hundred and seven $\frac{7}{100}$ dollars be classed in the third class of said claims against said estate, to bear interest at the rate of 6 per cent. per annum from date of probate of same.

And it is further ordered by the court that the said administrators do pay immediately to said firm said sum of forty-five thousand six hundred and seven $\frac{7}{100}$ dollars, the amount of their claim so probated, allowed, and classed as aforesaid, with interest thereon at the rate of six per centum per annum from date of probate
326 of same, but only on condition that said collaterals now in the hands of said firm shall legally and fully pass into the hands of said John R. Llewellyn and Joshua M. Craig, as administrators of said estate, as aforesaid, as assets belonging to said estate, free from all and any lien, claim, demand, or incumbrance of said firm, or of any other person, or of any court of record of the State of Louisiana.

(On the face of the record of the above order of court, written crosswise, on page 524, book, are the following assignments, &c.:)

Received of J. M. Craig, administrator of estate of Junius W. Craig, deceased, nineteen thousand two hundred and sixty-six $\frac{9}{100}$ dollars, as cash on the 1st day of January, 1866, on the within claim, ($19,266.09), this 18th day of December, A. D. 1865.

A. D. KELLY & CO.,
In Liquidation.

Witness:
JAS. McMURRAY, *Clk.*

327 For value received, I hereby assign, transfer and set over unto W. W. Frazier, or order, twenty thousand dollars of this allowance and judgment, this 18th day of December, A. D. 1865.

A. D. KELLY & CO.
In Liquidation.

Witness:
JAS. McMURRAY, *Clerk.*

For value received, we hereby assign the remainder of this allowance and judgment, principal and interest, unto W. W. Frazier, or order, this 18th day of December, A. D. 1865.

A. D. KELLY & CO.
In Liquidation.

Witness:
JAS. McMURRAY, *Clerk.*

STATE OF ARKANSAS, } *ss.*
County of Chicot, }

I, Jas. McMurray, clerk of the probate court for said county, hereby certify that the foregoing four pages and this page contain a true and correct copy of the order of the court in the above entitled
328 cause, classifying said claim of A. D. Kelly & Co. *vs.* said estate, as well as the endorsements on said record entry, as the same appears on papers 523, 524, and 525, Book B of the records of the probate court, now in my office.

Witness my hand and the seal of said court, at office, this 9th day of October A. D. 1866.

[SEAL] JAS. McMURRAY, *Clerk.*
(Duly stamped).

Endorsed as follows. Filed in open court this October 19th, 1866. J. McMurray, clerk, by J. M. Bliss, D. C.

Clerk's Certificate.

STATE OF ARKANSAS, } *ss.*
County of Chicot, }

I, Geo. T. Wilkinson, clerk of the circuit court and *ex-officio* recorder in and for the county and State aforesaid, do hereby certify that the foregoing pages and the above writing on this page, ——

329 At the October term of the Chicot circuit court, in chancery, on the 23d day of October, 1866, a day of said term of said court, among others, the following proceedings were had, to wit:

CREDITORS OF J. W. CRAIG *v.* EMMA J. WRIGHT *et al.*

Comes William H. Todd, by his solicitor, and files here his separate answer to the cross-bill of Emma J. Wright and others, in this cause.

Chicot Circuit Court in Chancery. October Term, A. D. 1866.

CREDITORS OF JUNIUS W. CRAIG, dec's'd, *v.* EMMA J. WRIGHT *et al.*

The separate answer of William H. Todd to the cross matter alleged and set up in the joint and several answers of Emma
330 J. Wright, William P. Halliday, Thos. T. Wright, and Eliza Wright, his wife, and the City of Helena to the original bill herein.

This respondent, reserving to himself all benefit of exception to the many errors and insufficiencies in said answer and cross-bill contained, answering for himself alone, for answer to so much thereof as is necessary or material for him to make answer unto, answers and says: He knows nothing about what amount of assets belonging to the estate of Junius W. Craig, dec'd, came to the hands of the said Joshua M. Craig, as administrator of said estate, nor with what fidelity he has administered said assets; knows nothing about the quantity of cotton that was raised on or for said estate during the years mentioned in said cross-bill, or what disposition was made of said cotton. Respondent states that at the time
331 of his death the said Junius W. Craig was largely indebted to him; that on the 25th day of July, A. D. 1859, his claim against said estate, having been regularly probated according to law, was presented to the probate court of Chicot county, Arkansas, and allowed and classed against said estate to the amount of forty-seven thousand one hundred and eighty-one dollars, with ten per cent. interest thereon until paid, and he denies that said claim has ever been paid off or satisfied in any manner, except the sum of twelve thousand dollars ($12,000) paid this respondent by Joshua M. Craig and John R. Llewellyn, as joint administrators of said estate, on the 10th day of January, 1860, for which said amount respondent gave said joint administrators his receipt, and the further sum of five thousand dollars paid respondent by Joshua M. Craig, as sole administrator, on the 20th day of October, A. D. 1860,
332 for which respondent also gave his receipt, and respondent fully believes and alleges that said payment of twelve thousand dollars was charged and accounted by said joint administrators, and the payment of five thousand dollars charged and accounted for by said sole administrator in their several settlements with the probate court of Chicot county, and that his receipts for said sums are now on file in said court as vouchers to said settlements, and

respondent positively denies that there has ever been other or further payment on his said claim.

Respondent denies that there has been various and extended transactions between him and the said Joshua M. Craig, or that there has ever been any executed transaction at all between him and said Craig. Respondent supposes that said defendants has reference in said charge to a proposition and agreement made between this respondent and the said J. M. Craig for the settlement of
333 respondent's debt after respondent had been informed that a compromise had been effected, and that said Craig had bought out said estate and assumed the payment of the debts.

Respondent alleges that said proposition was a mere memorandum of how respondent's debt could be settled in part by said Craig, and respondent alleges and charges that said proposition was made and agreed to [by] him only because he supposed said Craig was to succeed to said estate by said supposed compromise, but he denies that any of his said claim was ever paid under said agreement, except the $5,000 hereinbefore mentioned; and respondent further alleges and charges that after he found that said compromise had not been ratified and could not be carried out by said Craig he cancelled said agreement; he denies that he ever released his claim upon said estate by said agreement, but charges that the same was only
334 a private unexecuted contract between said Craig and himself. Respondent denies as utterly false that the original bill in this cause was brought by any collusion between respondent and said Craig, and begs leave to state, as a creditor of said estate and one of the complainants in said bill, that he has waited now nearly nine years for his money, trusting that the obstinate and vexatious litigation, which has been almost constantly carried on during that period between the respondents in said answer and cross-bill and other claimants to said estate, would cease and be determined, and said estate be administered and the debt paid. He states that he had a mortgage security for his debt, and that before the filing of the original bill in this cause he had instituted proceedings to foreclose his said mortgage; that there were prior incumbrances on the property mortgaged to secure his debt, and he did not believe
335 they would sell for enough to satisfy his debt, and that he was only a party to said bill to the extent of whatever of his claim might remain unpaid after a foreclosure of his mortgage, and he alleges and states that said bill was brought only to expedite the payment of the debts of said estate and to save himself from further delay and hindrance because of *of* said vexatious litigation, which is still continued and encouraged by the defendants to said bill.

Respondent further states that in his separate and original bill to foreclose his mortgage on said estate, each and all of the defendants who complain in said cross-bill and who assert and charge therein that your respondents claim has been paid off and satisfied were made parties, and that each and all of them were fully and in due time apprised of the pendency of said suit, yet the- made no defense to said suit, but suffered your respondent at the present term of this court to take a decree against them. Respondent, for special

336 answer to such of the interrogatories propounded in said cross-bill as is material for him to answer, answers:

1st. No portion of his claim set up in the orignal bill herein, except the credits therein stated, has ever been paid.

5th. Respondent has had no transaction with Joshua M. Craig by which any greater portion of his claims against said estate have been settled, except what is stated in said bill.

6th. That said respondent does not hold his said claim, or any part thereof, as trustee for any other person or persons except himself, and that said Joshua M. Craig is in no way interested in respondent's said claim.

7th. There was no agreement between this respondent and the said J. M. Craig in the bringing of said original bill, nor any correspondence between respondent and said Craig, or his agents or attorneys in regard to said bill before the same was brought.

337 And respondent, further answering, demurs to said cross-bill, because there is no equity in the same, and he prays to have the benefit of said demurrer on the final hearing of this cause.

And this respondent, having fully answered said cross-bill, prays to be hence dismissed with his reasonable costs, &c.

WM. H. TODD,
By CHAPMAN & CARLTON, *Sol's.*

STATE OF ARKANSAS, *ss:*

I, Wm. H. Todd, do swear that the matters, facts, and things set forth in the foregoing answer, so far as stated as of my own knowledge, are true, and so far as the same are stated as from information and belief I believe them to be true, so help me God.

WM. H. TODD.

Sworn to before me, James McMurray, clerk of the Chicot circuit court, this 22d day of October, 1866.

JAS. McMURRAY, *Clerk.*

338 Endorsed thereon: Filed in open court this October 23rd, A. D. 1866. Jas. McMurray, clerk.

Bill of Revivor and Supplement.

STATE OF ARKANSAS:

In the Chicot Circuit Court, in Chancery. In Vacation, August 30th, 1867.

CREDITORS OF JUNIUS W. CRAIG, Deceased, *v.* EMMA J. WRIGHT *et al.* } Bill of Revivor and Supplement.

This day came the complainants, by their solicitors, and filed here their bill of revivor and supplement to their original bill now on file in this office, the object of which is to subject the estate of the said Junius W. Craig, deceased, to the payment of his debts, and the said

complainants having also filed here an affidavit that a part
339 of said defendants named in said bill of revivor and supplement, to wit, Emma J. Wright, and the same Emma J. Wright, as executrix of the last will and testament of the said Junius W. Craig, dec'd, are now residents of the State of Arkansas: It is therefore on motion of said complainants,— that said non-resident defendants be notified of the filing of said bill of revivor and supplement, the object of which is as above set forth, and that they be required to appear before the judge of our said circuit court, in chancery sitting, on or before the third day of the next December term of said court, at a court to be begun and held at the court-house of said county, in the town of Lake Village, on Monday, the 2nd day of December next after the date hereof, and then and there plead, answer, or demur to said bill, or the same will be taken as confessed, and a decree entered accordingly.

Attest: JAS. McMURRAY, *Clk*,
By C. W. FRY, *D. C.*

340 In the Circuit Court, on the Chancery side thereof, at the December Term, A. D. 1867.

To the Honorable William M. Harrison, judge of said court, in chancery sitting:

Humbly complaining showeth unto your honor, your orators, and oratrices, Joseph S. Woolfolk and Lucy D. Woolfolk in her right, Wm. H. Todd in his own right, and the said Wm. H. Todd in his right, as assignee of Wm. W. Frazier, who was the assignee of A. D. Kelly & Co., Altoona C. George, as executrix of the last will and testament of Hosea George, deceased, John P. Walworth, Hannah W. Strickland, Mary C. Leverance, John Walworth, Annie Walworth, Sarah Walworth, and Mary Walworth, in their right as heirs-at-law and as distributees of the late Horace F. Walworth, deceased, for themselves, and in behalf of all the creditors of the estate of
341 Junius W. Craig, late of the county of Chicot and State of Arkansas, deceased. That your orators and oratrices, Joseph S. Woolfolk and Lucy D. Woolfolk, his wife, in her right, William H. Todd and Altoona C. George as executrix *of* aforesaid, together with William W. Frazier, in his right as assignee of A. D. Kelly & Co., and Samuel B. Newman as executor of the last will and testament of Horace F. Walworth, deceased, for themselves, and in behalf of all the creditors of the estate of Junius W. Craig, deceased, did, on or about the 13th day of March, A. D. 1866, exhibit in this honorable court their original bill of complaint against Emma J. Wright, The City of Helena, Lewis E. Craig, William B. Street, as administrator of the estate of John P. Craig, deceased; William P. Halliday, in his own right, and as executor of the supposed last will and testament of Junius W. Craig, deceased; the State of Arkansas as trustee under the said supposed last will and testament of Junius
342 W. Craig, deceased; Sanford C. Faulkner, Evaline M. Faulkner, his wife, and their children; Sallie F. Brown and Henry M. C. Brown, her husband; Sandford C. Faulkner, Jr., Matilda F.

Buchanan and —— Buchanan, her husband; and Philip T. Faulkner and Mary P. Faulkner, infants; and against Joshua M. Craig in his right as purchaser of the estate of the said Junius W. Craig, deceased, and also in his capacity as administrator *cum testamento annexo* of said estate; and Robert E. Craig, as administrator of the estate of John Anderson Craig (who was joint purchaser with the said Joshua M. Craig of said estate), deceased, and also against each and every of the heirs at law of the said Junius W. Craig, deceased, all of whom are mentioned and described by name in said original bill of complaint, thereby representing that Junius W. Craig, late a citizen of the State of Arkansas, and resident of the county of Chicot, had departed this life at the city of Louisville,
343 in the State of Kentucky, on or about the seventh day of September, A. D. 1858, leaving as his heirs at law as mentioned and described in said bill, and owning at the time of his death a large estate, consisting of lands, slaves, personalty, in the State of Arkansas, and valuable real estate in the city of Louisville, in the State of Kentucky, and in the city of Memphis, in the State of Tennessee, which estate came chiefly to him by descent from his father and from his brother, Leland P. Craig, who died before him; that the slaves, personal property, cash, and choses in action belonging to said estate at the time of the death of said Junius W. Craig, were appraised to be worth the sum of $337,463.40, and the real estate considered to be worth about half a million of dollars. That after the death of said Junius W. Craig, who was alleged by
344 many to be insane and incompetent to make a will, two paper writings were produced, each purporting to be his last will and testament, one executed on the 17th July, 1858, with a codicil, and one executed on the 16th of June, 1858, by both of which he devised to the defendant Emma J. Wright, on- half of the net income of his estate for and during her lifetime, the other half to be applied in improving and increasing his estate, and at her death the whole to be applied to the erection and endowment of a college at or near Helena. That by the said paper writing last made as aforesaid there was devised to the defendant, Lewis E. Craig, the sum of forty thousand dollars, and to John P. Craig ten thousand dollars, and by it the said Lewis E. Craig was appointed trustee to carry out the will in regard to the erection and endowment of the college at Helena, the powers conferred upon him to divolve in case of his death on "three trustees of Helena" to carry out said will, &c.
345 That there was also alleged to be an autographic will of the said Junius W. Craig, executor, August 29th, 1857, and which was uncancelled, devising certain of his property to the said Eveline M. Faulkner for life, and certain other property and rights to the said Lewis E. Craig and John P. Craig and to Alexander D. Kelly; that on the 4th of Oct., 1858, letters of administration on the estate of the said Junius W. Craig, deceased, were granted to Joshua M. Craig and confirmed on the 2nd day of December, A. D. 1858. That in the mean time the said William P. Halliday, who was named executor therein, offered for probate, in the probate court of Chicot county, the said will of July 17th, 1858, and without objec-

tion, but under the protest of the heirs-at-law, the same was probated in common form as the last will and testament of the said Junius W. Craig, deceased; that on the next day the defendant, Sanford C. Faulkner, instituted suit in this honorable court,
346 on the law side hereof, to contest the validity of the said supposed will, and that the defendant, William P. Halliday, applied for letters testamentary on said estate, but was refused, but that on the 10th day of February, 1859, letters of administration *pendente lite* of said estate were by that court granted to the defendant, Joshua M. Craig and one John R. Llewellyn, from which appointment and decision the defendant, Lewis E. Craig, appealed to this court. That on the 20th day of June, 1859, the defendant, Sanford C. Faulkner, and Eveline M. Faulkner, and other children, and the said Alexander D. Kelly and John P. Craig, filed in this court their bill or petition, denying the validity of both wills made in 1858, and relying upon the one made in 1857, asking for an issue to try said wills, and that in the mean time a receiver be appointed for the estate, upon which issues were so made up to try the
347 validity of said several wills. That the defendant, Joshua M. Craig and John R. Llewellyn, continued to administer said estate, and the several matters touching said contest about the wills so remained until the April term, A. D. 1860, of this honorable court, when it was adjudged here that the said probate court erred in refusing letters testamentary to the said William P. Halliday, and in granting letters of administration to the said Joshua M. Craig, from which judgment of the court here the said Joshua M. Craig appealed to the supreme court, and the complainants in the bill filed their motion for the appointment of a receiver, upon which state of case a compromise was agreed upon between the parties contesting, which was embodied in a decree of this honorable court and made of record, by which said compromise it was agreed that the will of July 17th, 1858, should be taken as established and the various rights and
348 claims of the several contestants and claimants were determined and agreed upon. That the said Joshua M. Craig and John Anderson Craig were to purchase said estate and to become individually responsible to the several claimants for the several amounts allotted to them respectively by the terms of the compromise, and for which they gave their individual notes and acceptances. It was also agreed by said compromise that the said William P. Halliday should resign his right to letters testamentary, and that letters of administration on said estate should be granted to the said Joshua M. Craig, who should immediately assume control of said estate and pay the debts thereof. That up to the October term, A. D. 1860, of this court claims against said estate had been allowed and classed to the amount of $236,289.34, of which there had been paid in
349 due course of administration $83,195.85. That among said claims so allowed and classed were the following, to wit: Claim in favor of A. D. Kelly & Co., for $45,607.76, on which has been paid $19,266.09; claims in favor of H. F. Walworth, amounting to $21,414.82, on which nothing had been paid; claims in favor of your oratrix, Lucy D. Woolfolk, amounting to $58,725.64, on

which $25,000 had been paid, and one for $3,426.00, on which nothing had been paid; claims in favor of your orator, William H. Todd, amounting to $47,181.60, on which $5,000 was paid October 20th, 1860; claims in favor of Hosea George, amounting to $19,264.01, on which $8,000 had been paid. That the said claim in favor of A. D. Kelly & Co. had been assigned to William W. Frazier; that the said Horan F. Walworth had died, and the said Samuel B. Newman had qualified as his executor, and that the said Hosea George had also died
350 and the said Altoona C. George become his executrix. That the evidence of the said several allowances and the payments thereon, and of the said several transfers would, whenever required, be presented to the court here; also, that there were other unpaid claims or allowances against said estate, as follows, to wit: Claims in favor of Leland W. Peak, amounting to $5,897.79, on which $3,300 had been paid. One in favor of R. A. Goodloe for $200. One in favor of Leland W. Peak for $3,250. One in favor of Claiborne W. Saunders for $160. Said original bill also recites the filing in this court by the said Joshua M. Craig and John Anderson Craig of their original bill of complaint, setting forth said compromise agreement and the action and responsibility thereunder, and alleging that said compromise was not binding on the parties thereto for reasons therein assigned, and praying the protec-
351 tion of this court to themselves in the premises; that said bill was duly answered and the issues made up, but in consequence of the war no action was had on it until ——, A. D. 1866, when the said Joshua M. Craig and Robert E. Craig, as administrator- of the said John A. Craig, (who in the meantime had died,) filed their bill of revivor and supplement to said bill, alleging that said compromise had been violated by some of the parties thereto and was not binding on others, and praying that the same might be set aside; that said bill of revivor and supplement was still pending in this court, &c.

Said original bill also sets forth the occurrence of the late disastrous war, by which the slaves belonging to said estate had been emancipated and the personal property destroyed; that in consequence of great financial embarrassment in the commercial
352 world the said Joshua M. Craig had become crippled in his resources and unable to carry out said compromise and pay the debts of said estate; that new suits and controversies had sprung up about the rights to said estate, and that the complainants therein, creditors of said estate, were unwilling to await the uncertain decision of such never-ending contests, and praying that the assets of estate might be marshalled and applied to the payment of the just debts and demands against said estate, and to that end, that a receiver might be appointed to take charge of said estate, to manage and preserve the same, all of which by the said original bill and the exhibits thereto on the files of this court now here remaining will more fully and at large appear.

And your orators and oratrices further and by way of supplement to said original bill, respectfully represent and show that pro-
353 cess of subpœna against the defendants to said bill, who were

residents of the State of Arkansas, requiring them to answer the same was duly issued and served according to law, and an order of publication duly entered, and publication duly made, notifying all the non-resident defendants named therein of the filing of said bill, and requiring them to appear and plead, answer, or demur to the same; that the defendant, Joshua M. Craig, as administrator, Lewis E. Craig, Robert E. Craig, as administrator of John A. Craig, deceased; James S. Peak and Nannie Peake having been duly served with process, fail to plead to said bill, decree was taken against them as confessed. That at the October term, A. D. 1866, of this court, the defendants, Emma J. Wright, William P. Halliday, Thomas T. Wright, Eliza Wright, and the city of Helena, appeared by their solicitors and filed here their answer and cross-bill
354 to said bill, admitting in the main the statements and allegations contained in said original bill, but denying that the debts or claims mentioned therein as due to William W. Frazier and to your orator, William H. Todd, were actually due and owing as stated therein, but on the contrary, charging that said debts had been wholly paid off and discharged, and also alleging and charging that there was collusion and confederation by and between the said William W. Frazier, your orator, William H. Todd, and the defendant, Joshua M. Craig, to defraud said estate, and defeat the manifest objects and intentions of said testator said cross-bill embracing interrogatories which the complainants to the original bill were required to answer. The defendant Lewis E. Craig, also appeared by his solicitor and filed his answer and cross-bill, which was in substance the same as the answer and cross-
355 bill of the defendants, Emma J. Wright, William P. Halliday, and others. That at the said October (A. D. 1866) term of this court your orator, W. H. Todd, filed herein his separate answer to the cross-matter contained in said answer of Emma J. Wright and others, and prayed that the same might be taken and considered, also as an answer to the cross-matter contained in the answer of the said Lewis E. Craig, all of which several bills and answers and cross-bills and answer to cross-bill are still remaining on the files of this court undetermined, and to which reference is here made for a more definite and complete statement of the several matters and charges therein contained, no other or further steps having been taken in the said cause since the said October term A. D. 1866 of this court.

Your orators and oratrices further representing, state and
356 show that after the filing of said original bill the said Samuel B. Newman resigned his letters testamentary on the estate of Horace F. Walworth, deceased, and said estate was by order of the proper tribunal having custody of the same turned over to the heirs-at-law and distributees of the same. Wherefore your orators and oratrices, Jno. P. Walworth, Hannah W. Strickland, Mary H. Leverance, John Walworth, Anne Walworth, Sarah Walworth, and Mary Walworth, as such heirs-at-law and distributees, are made parties to this bill of revivor and supplement, and also since the filing of said bill the claim against the estate of Junius W. Craig, deceased, therein represented to be held and owned by Wm. W. Frazier as having

been assigned to him by A. D. Kelly & Co., has been by the said Wm. W. Frazier assigned and transferred to your orator William H. Todd, who is also in right of said assignment made complainant hereto.

357 Your orator and oratrices also represent and show as in part stated by said original bill that the said claim of H. F. Walworth against said estate was in part secured by mortgage upon certain lands in said county of Chicot and State of Arkansas, and the said claim in favor of your orator, Wm. H. Todd, was secured by mortgage upon what is known as the Yellow Bayou plantation, belonging to said estate, and that said last mentioned claim should of right be credited with the sum of $12,000 as paid on the —— day of ——, A. D. 18—, in addition to the $5,000 mentioned as a credit therein, and also that the claim in favor of your orators, Joseph S. and Lucy D. Woolfolk, being for balance of purchase money due the said Lucy D. by the said Junius W. Craig, deceased, for the purchase of her interest in the estate of Leland P. Craig, was by the deed of conveyance for said interest made a special lien upon all

358 of the property thereby conveyed, being an undivided moity of the one-half of all the lands held and owned in the said county of Chicot by the said Junius W. Craig and Leland P. Craig at the time of the death of the said Leland P. Craig, and which said lands comprise most or all of the lands and real estate held and owned in said county by the said Junius W. Craig at the time of his death, and at present composing a large proportion of his estate.

Your orators and oratrices would further represent that before the filing of said original bill, to wit, on the —— day of ——, A. D. 1866, the said Samuel B. Newman, as executor of the last will and testament of the said Horace F. Wolworth aforesaid, filed in this honorable court his bill to foreclose the mortgage which he held to secure the debt or claim due his testator as aforesaid, and to subject the lands mortgaged to the payment of said claim, and

359 at the April term, A. D. 1866, of this court, notice of the pendency of said suit having been duly served upon all the necessary parties by process of subpœna and order of publication, he obtained a decree against the administrator of said estate for the sum of $30,113.53, with interest thereon at 8 per cent. per annum from date of decree, and also a decree that in default of the payment of the said sum of $30,113.53 by a day specified in said decree, then that the lands mortgaged to secure said debt be sold to satisfy said decree, and Charles W. Fry was appointed a commissioner to carry out said decree. That on the 21st day of January, A. D. 1867, the said sum of money mentioned in said decree still being and remaining unpaid, the said commissioner did, in accordance with this mandate of said decree, offer for sale and sell said lands to satisfy said decree, and that said lands sold for the sum of

360 $3,910.60, which amount has been paid over to your orators and oratrices, the heirs-at-law and distributees of the said Horace F. Walworth; wherefore the said claim in favor of H. F. Walworth against the estate of Junius W. Craig ought of right to be credited with said sum of $3,910.60.

They further represent that at the time when said original bill was filed your orator, William H. Todd, had pending in this honorable court his bill to foreclose his aforesaid mortgage on Yellow Bayou plantation, and to subject the same to the payment of his debt against said estate, and that since the filing of said bill, to wit, at the October term, A. D. 1866, of this court, all the parties to said bill having been duly served with notice of same by process of subpœna or by publication, and having each of them wholly failed to appear and plead, answer, or demur to his said bill, he obtained a decree against said estate for the sum of $52,662.95, being the balance then found to be due him on his original claim as pro-
361 bated against said estate, said decree requiring the administrator of said estate to pay to the claimant therein (your orator, Wm. H. Todd) the said sum of $52,662.95, with ten per cent. per annum interest thereon from the date of said decree, on or before the 4th day of April term, A. D. 1867, of this court, and in default thereof that the equity of redemption of said administrator, and *if* any and all the defendants in said cause in and to the lands mentioned in the pleadings in said cause, to be forever barred and foreclosed, and the said lands be sold on the second Monday of said April term, A. D. 1867 (being the 22d day of April, A. D. 1867), to satisfy said decree, and Charles W. Fry was appointed a special commissioner to carry said decree into effect. That said administrator, having wholly failed to pay or cause to be paid to your orator, William H. Todd, the amount designated in said decree by the day therein specified, the said commissioner did, in strict accordance with
362 the mandate of said decree, after having given the notice required thereby, on the said 22d day of April, A. D. 1867, at the front door of the court-house in the town of Lake Village, proceed to offer said lands for sale for cash to satisfy said decree, and your orator, William H. Todd, having bid and offered for all the lands mentioned in said decree the sum of $25,000, and he being the highest and last bidder therefor, the same were stricken off to him as the purchaser therefor at same sum of $25,000, and said amount being of right due and coming to your orator, W. H. Todd, he gave said commissioner his receipt for said sum as paid on account of his claim against the estate of Junius W. Craig, and received from said commissioner his deed for said lands, which deed has been duly acknowledged according to law, and is now recorded in the recorder's office of said county of Chicot; the original,
363 being in the possession of your orator, William H. Todd, is held subject to the order and inspection of this court. They respectfully represent that there having been no term of this court held since the making of the said two last-mentioned sales, said commissioners have made no report of the same, but presumes he will do so at the present term hereof. Wherefore, and if said sales are confirmed, the said claim against said estate in favor of H. F. Walworth is entitled to be credited with the sum of $3,910.60, as paid on the 21st day of January, A. D. 1867, and the said claim against said estate in favor of your orator, William H. Todd, is entitled to be

credited with the sum of $25,000, as paid on the 22d day of April, A. D. 1867.

Your orators and oratrices would respectfully refer to the various proceedings in the said suits for foreclosure on the records of this court remaining for a more full and particular understanding
364 of the same, and will also, when required, furnish a duly certified copy of the deed of conveyance from your oratrix, Lucy D. Woolfolk (nee Craig), to the said Junius W. Craig, as above referred to.

Further representing, your orators and oratrices state and show that since the filing of said original bill, to wit, on or about the 1st day of February, A. D. 1867, Lewis E. Craig, one of the defendants to said bill, has departed this life, and letters of administration on his estate has by the proper court been granted to Charles H. Carlton, wherefore they pray that the said C. H. Carlton, in his capacity as administrator aforesaid, may be made a party to this bill; and also that since the filing of said bill letters of administration on the estate of John P. Craig, deceased, have been granted to William B. Street, wherefore the said William B. Street is also made a party defendant to this bill.

365 Your orators and oratrices would further respectfully represent and show unto your honor that at the last October term, A. D. 1866, of this court the cause heretofore pending herein, wherein Joshua M. Craig and Robert E. Craig, as administrator of the estate of John Anderson Craig, deceased, filed herein their bill of complaint against Emma J. Wright and others, the parties to the aforesaid compromise, seeking relief against said compromise, and that the same might be set aside, came on to be heard upon the bills and answers, and after having been fully argued by counsel and considered by the court, it was decreed "that the decree of compromise entered upon the records of this court at the April term, A. D. 1860, hereof could only be binding upon the parties who appeared and consented to it, or afterwards satisfied that the non-resident parties to the proceedings therein, and who had been brought into court by order of publication, were not parties to said decree."

366 That the sale by the said Emma J. Wright and the City of Helena of interest in said estate to the said Joshua M. Craig and John Anderson Craig, and the execution of notes therefor, and the entry upon common law record of the court of a finding and verdict establishing the paper writing of 17th of July, 1858, as the last will and testament of Junius W. Craig, and the decree thereupon establishing the same, and the renunciation of his executorship by the said William P. Halliday, and the argument and the agreement that letters of administration with the will annexed should be granted to the said Joshua M. Craig, were all parts of one and the same transaction and compromise and mutually under defendant, and that the said Emma J. Wright and City of Helena did not sell or assign to the said Joshua M. and John Anderson Craig their interest in said estate under said supposed will, but only such interest as they were adjudged to have by said compromise.

367 And further, that the said Emma J. Wright, being named executrix in said supposed, will could not sell her interest thereunder and charge the estate itself with a lien in her own favor for the price of such interest, and that it was not the intention or meaning of said compromise to charge the estate of Junius W. Craig in Kentucky or Tennessee with any lien to secure the payment of notes given for the purchase of any such interest, and that by her conduct in attempting to assert and enforce her pretended lien upon the property of said estate in the States of Kentucky and Tennessee disturbed said compromise and warranted all the heirs-at-law of the said Junius W. Craig, deceased, in repudiating the same if it had been valued against them at any time theretofore. And further, that the said City of Helena had such an interest under the said will of June, 1858, as to make it a proper party to the original
368 suit of Sanford C. Faulkner and others against Emma J. Wright and others, but that it had no such interest under the said will of July 17th, 1858, under which said compromise was made as to authorize it to sell to the said Joshua M. and John Anderson Craig any interest whatever in said estate. Wherefore this court was then and there of opinion, and did think, that said compromise decree was without mutuality and ineffectual, and that it and all depending thereon as forming part of it was absolutely null and void, and that all the obligations executed by the said Joshua M. and John Anderson Craig, in consideration of the purchase of said estate, were, for the want of consideration, wholly null and void and of no effect, and ought to be cancelled and set aside; therefore, it was by the court ordered, adjudged, and decreed that said decree of compromise be in all its parts recalled, revoked, annulled,
369 and wholly held for naught; that said finding and verdict on the common law side of this court in respect to said will and all the entries on the record in regard thereto be taken and held as if never made, and that the said Emma J. Wright, the City of Helena, Lewis E. Craig, and all other persons claiming or to claim under them or under the said will be perpetually enjoined from in any manner howsoever availing themselves thereof in any suit, proceeding, controversy, or matter whatsoever.

And it was further ordered, adjudged, and decreed that all of the notes and other evidences of debt whatsoever given or executed by the said Joshua M. and John Anderson Craig, or either of them, and all mortgages made to secure the same, &c., be, and the same are hereby, cancelled and wholly held for naught, and the holders of the same are required to bring the same into court to be delivered up, and that the said Emma J. Wright be required to cancel
370 said mortgage on the record of deeds and mortgages. And it was also further decreed that the said Emma J. Wright and her assignors, who are partners to this suit, be perpetually enjoined from attempting to enforce her pretended lien upon the property of said estate in the States of Kentucky and Tennessee, or from probating or collecting any of said notes or evidences of debt against the estate of the said John Anderson Craig, deceased, or from the administrator thereof.

And it was also further ordered, adjudged, and decreed by the court here that as a part of said invalid compromise the said relinquishment by the said William P. Halliday of his right to letters testamentary of said will and the consent and agreement of the parties that letters of administration, with the will annexed, should be granted to the said Joshua M. Craig be deemed and taken to be revoked, and that they shall cease any longer to bund the par-
371 ties, leaving the said Emma J. Wright and William P. Halliday at liberty to apply for and obtain letters testamentary of said will from the said probate court of the county of Chicot whenever it shall please them or either of them to do so until the grant, whereof the said Joshua M. Craig shall be at liberty to continue to act as administrator; and he was thereby perpetually enjoined from opposing or delaying action on their said application and from continuing to act as such administrator or intermeddling as such with the said estate directly or indirectly after the grant of such letters; all of which will more fully and at length appear, reference being had to the record entry of said decree and finding on the records of this court remaining and to which reference is hereby specially made.

Your orator and oratrices would further represent and show that although the said supposed will of July 17th, 1858, date was duly established and adopted by virtue of the finding and
372 verdict on the common law side of this court, as mentioned in said decree of compromise, and although said verdict and finding and all the entries on the record in regard thereto were by the said decree of this court rendered at the October term, A. D. 1866, ordered, adjudged, and decreed to be taken and held as never made, and the said Emma J. Wright, the City of Helena, Lewis E. Craig, and all other persons claiming or to claim under them or under the said will of July 17th, 1858, be perpetually enjoined from in any manner howsoever availing themselves thereof in any suit, proceeding, controversy, or matter whatsoever. Yet the said Emma J. Wright, on the 24th day of December, A. D. 1866, without further proof or establishment of said will, but relying upon the same as already established by said verdict and finding, and in contempt of the order and injunction of this court, applied for and obtained from the clerk of the probate court of Chicot county in vacation, letters testamentary on said estate under said will of July 17th, 1858,
373 filing with said clerk a bond only in the sum of ten thousand dollars, representing to him that there was no personal estate, and that consequently a nominal bond was all that was required, when it was a well-known fact, shown even by the records of said probate court themselves, that there was belonging to said estate and uncollected choses in action and good and valuable evidences of debt, amounting to over one hundred thousand, which would of right immediately pass to the hands and control of her, the said Emma J. Wright, upon her qualification, and also that the improved lands in said county were well worth an annual rental of $10,000 in cash, which would also necessarily come to the hands and control of said executrix.

Your orator and oratrices, or some of them, immediately upon hearing of said application, protested to said clerk against the grant of letters upon such a bond, but were informed that they were
374 too late, that said letters had already been issued. Your orator and oratrices immediately notified the said Joshua M. Craig, the acting administrator, that said letters testamentary had been obtained by fraud and covin, and warned him not to deliver up said estate until your orator and oratrices could have a hearing before said probate court, and until the action of the clerk in vacation was approved by said court. That at the January term, A. D. 1867, of said probate court, William W. Frazier, who then owned and held the said claim of A. D. Kelly & Co. against said estate for himself and in behalf of other, the creditors of said estate, appeared and excepted to the action of the clerk in vacation in granting letters testamentary to the said Emma J. Wright, first, upon the ground that she was not entitled to any such letters for the want of proper probate of any will of the said Junius W. Craig; second, that supposing said will had been properly probated, that
375 William P. Halliday, who was named as joint executor therein with the said Emma J., had never filed his renunciation or declination of said executorship, the said Emma J. Wright was not entitled to such letters, except in conjunction with the said William P. Halliday; third, that said letters were obtained by fraud and misrepresentation upon the clerk of said court, and, fourth, that the bond filed by the said Emma, and upon which said letters were obtained, was entirely inadequate and insufficient in amount, and also that the sureties on said bond were totally insufficient, neither of them owning one dollar's worth of property in Arkansas, and one of them being a non-resident of the State; wherefore he prayed that the action of said clerk in granting said letters might be disapproved and said letters declared null and void. That at the same time the said Joshua M. Craig filed in said court his petition setting out that he was a creditor of said estate to a large amount,
376 as shown by his last annual settlement; that he had been warned not to deliver up said estate to the said Emma J. Wright under pain of making himself responsible upon his official bond. That he had been enjoined in said decree of this court at October term, A. D. 1866, from hindering or delaying the application of the said Emma J. Wright and William P. Halliday for letters, which injunction he was willing and anxious to obey, but in view of said warning he had received, and of the entire inadequacy and insufficiency of the bond given by the said Emma J. Wright, he asked the advice and instruction of the court in the premises, in order that he might be protected in what he might do. That said petition for advice and instruction and said exceptions to the grant of letters by the clerk came on to be heard by the court at the same time, and the court having ruled the said Emma J. Wright to give an additional bond for two hundred thousand dollars, she filed in open court an additional
377 bond for that amount, whereupon the said W. W. Frazier and your oratrix, Altoona C. George, also excepted to the

sufficiency of said bond, and also of the securities thereto, and asked that their exceptions might be embodied with the exceptions before taken; after which and in the progress of said exceptions and petition the said Emma J. Wright, by her agent and father, and the said petitioner, Joshua M. Craig, applied to and importuned the said William W. Frazier and your oratrix, Altoona C. George, through the respective attorneys, to withdraw their aforesaid exceptions in regard the qualification of the said Emma J. Wright, and to permit her to qualify as such executrix, alleging and pretending that if she was so allowed to qualify and take possession of said estate that she would immediately proceed to pay off and discharge all the debts and liabilities; that she had the means to do so, outside of the estate, and if permitted to take the administration of said
378 estate the most or all of said debts would be paid off in less than twelve months; and further, that if permitted to become such executrix she would make no exception to the account current then on file and under consideration of the said Joshua M. Craig, as administrator of said estate, but would consent that the same might be approved for the sake of a speedy settlement of said estate, and to that end she consented to enter into a written obligation or contract, and did actually enter into a written agreement to that effect, which agreement was signed in duplicate by the said Emma J. Wright, the said Joshua M. Craig, and the said exceptors, by their said attorneys; the said Emma J. Wright also agreeing and covenanting with the attorneys of the said William W. Frazier, who were also attorneys for your orators and oratrix, William H. Todd, Joseph S. Woolfolk, and Lucy D. Woolfolk, for whose benefit
379 and behalf said exceptions were also in reality taken, though they were not especially named therein; as a condition precedent to the withdrawal of said exceptions, that she, as such executrix, would make no objection nor throw any obstacle in the way of a sale of certain lands and premises of said estate which were mortgaged to secure the claim of your orator, William H. Todd, and for the sale of which the decree of this honorable court had been obtained at the preceding October term of this court.

Your orator and oratrices have neither of them ever had either of the original copies of said written agreement and covenant in their possession, but they believe, and so charge, that one of said duplicate copies was taken possession of by the defendant, Emma J. Wright, and the other by the said Joshua M. Craig, and they pray that the said Emma J. Wright or Joshua M. Craig may be required to produce said originals at the final hearing of this cause.

Your orators and oratrices, or those of them who were repre-
380 sented in said proceeding, well knew that the said Emma J. Wright could not bind herself as executrix in the manner proposed by said covenant and agreement, but being, as they had always been, anxious to have their just demands satisfied out of said estate, and not having been able upon examination to discover any good reason why the account of the said Joshua M. Craig, as administrator, should not be confirmed, and knowing that the said Emma J. Wright had been made a party to the proceeding for fore-

closure of the said mortgage of your orator, William H. Todd, that she had entered her appearance in said suit, and afterwards failed to show any good cause why said decree should not be had, and that any objection she might then make in her new capacity would only be captious and for delay, and replying upon the oft-repeated assurance of the said Emma J. that her only object in administering on said estate was to preserve it from waste and to apply it to the purposes and intentions of the testator, and that her first care should be a speedy settlement of the debts of the estate, they consented, and said exceptions were withdrawn, and the appointment of the said Emma J. by the clerk in vacation was confirmed, and said estate delivered over to her, and the said Joshua M. Craig was discharged from his administration and his said account confirmed.

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Your orator and oratrices further state and show that the said aforementioned account current of the said Joshua M. Craig, as administrator, showed a balance due him of about $34,000, which amount, by the confirmation of said account, became a primary charge upon said estate, and which amount, so far as your orators and oratrices are informed or knew, is still unpaid and subsi-ting.

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They also further represent and show that on the — day of —, A. D. 1866, all the personal property of said estate having been exhausted, the said Joshua M. Craig, as administrator of said estate, in strict accordance with the statute in such case made and provided, applied for and obtained and obtained an order of the probate court of Chicot county to sell the lands belonging to said estate to pay the debts, said sale having been ordered to take place on the 28th day of January, A. D. 1867, but that in the meantime letters having been granted to the said Emma J. as aforesaid, she refused to carry out said order, or make such sale as in justice and equity to your orators and oratrices she ought to have done.

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Your orators and oratrices further represent that soon after the said Emma J. Wright took charge of said estate as such executrix she rented the plantations belonging to said estate in this (Chicot) county for the year 1867 for the price and sum of $10,000, and received one-half of said sum or five thousand dollars in cash; that said cash payment would have been ample and sufficient to have paid all the taxes on said estate and preserve it from waste or forfeiture for taxes, more especially as the property of said estate in Kentucky had always yielded more than sufficient to keep down all all such charges and expense upon the same. And your orators and oratrices had well hoped that said cash payment would have been paid and expended for such taxes and to preserve said estate from forfeiture and destruction, as she, as such executrix, was in duty bound to do; but the said Emma J., as your orators and oratrices charge, with a view to defeat the rights of your orators and oratrices in regard to said estate and to appropriate the same to her own use, failed and neglected to pay the State and county taxes on the lands of said estate in Arkansas for the year 1866, and suffered the same to be advertised to be sold for

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said taxes, and on the day when that part of said lands which lie in Chicot county, and which are the most valuable belonging to said estate were offered for sale for such taxes, the father of said executrix, and who is the chief agent in the administration of said estate, appeared at said sale and attempted to and did actually buy in many of said lands in the name of William P. Halliday, who is her brother-in-law. Your orators and oratrices are also informed and believe, and they so charge the fact to be, that all the lands belonging to said estate in the counties of Phillips, Monroe, Crittenden, and Desha have also been permitted to be sold for taxes for the year 1866, notwithstanding that at the time they were so sold, the said Emma
385 J. had in her hands and possession the said sum of five thousand dollars, so received for rent, as aforesaid And your orators and oratrices submit whether, as said sum of five thousand dollars was a part of the proceeds of the property in this State, it should not have first been applied to the preservation of the property here, notwithstanding the pretention and allegation of the said executrix that she had paid out the same for expenses and repairs of the property of the estate in Tennessee and Kentucky. Your orators and oratrices have heretofore called the attention of the probate court of Chicot county to the aforesaid actings and doings of the said executrix, and asked that she be required to give a good and sufficient bond to indemnify them against wanton sacrifice of said estate, but said executrix has declared before said court that she was un-
386 able to make such bond in the State of Arkansas, and said court has wholly failed to afford them any protection or remedy in the premises.

Your orator and oratrix, Joseph S. Woolfolk and Lucy D. Woolfolk, would respectfully represent and show that their said claim against said estate is founded upon a debt due by the said Junius W. Craig, deceased, to your oratrix, Lucy D., for the purchase-money of certain interests which she held in the lands owned by said Junius W. and Leland P. Craig at the time of the death of the said Leland P. (and which same lands now compose the bulk of said estate), and that in the deed of conveyance made by her for said interest she reserved a special mortgage lien for the payment of said debt, as will appear from a certified copy of said deed, herewith filed, marked Exhibit X, and prayed to be considered herewith, the original not being in their possession; that said lien is still sub-
387 sisting, wholly unsatisfied, and is a lien upon said lands for their said claim.

They further represent that some time after said original compromise was made your orator and oratrix intervened by petition in the chancery court of Jefferson county, Kentucky, to have their debt first satisfied out of the property in Kentucky, pending the final decision of which said bill or petition the decree of this honorable court setting aside said compromise was rendered as aforesaid, after which the said Emma J. Wright obtained in the —— court of Jefferson county, Kentucky, letters testamentary on said estate under the said will of July 17th, 1858, as the valid and established will of the said Junius W. Craig, deceased, and took upon herself the manage-

ment and control of the property belonging to said estate in Kentucky; whereupon the remainder of the creditors also intervened with your orator and oratrix in their bill or petition,
388 and prayed for and obtained the appointment of a receiver to take charge of said property, and the property of said estate in the State of Kentucky was taken out of hands of the said Emma J. Wright and placed in the hands of a receiver.

Your orators and oratrices would further represent and show that at the last July term, A. D. 1867, of the probate court of Chicot county, Arkansas, the said Emma J. Wright filed in said court her petition, setting out said will of July 17th, A. D. 1858, as the only valid will of the said Junius W. Craig, deceased, and alleging that by said will she was entitled, absolutely and in her own right, to one-half of the annual profits of said estate from the death of said testator, and that all of said annual profits theretofore accruing from said estate had been applied to the payment of the debts of
389 said estate, and claiming that she was entitled to be subrogated to the rights and place of the creditors so paid out of her pretended share of said annual profits, and to stand in their place as a creditor of said estate, and praying that she might be so decreed and declared; that the administrator of the estates of Lewis E. Craig and John P. Craig, who alone were made parties to said petition, appeared to and demurred to said petition, but their demurrer was overruled, and the prayer of said petition granted by said probate court, from which said ruling of said probate court the said administrators, defendants as aforesaid, appealed to the law side of this court, and said appeal is still pending herein.

Your orators and oratrices further represent and state that, amid the many and difficult contests that have arisen touching the testacies of the said Junius W. Craig, it is difficult for them to determine which of the said several supposed wills was the valid
390 and established will of said decedent; that, having no particular interest in either of said wills, they have paid but little attention to the various contests that have arisen concerning them, but that the will of July 17th, 1858, being now recognized by the court of probate, and said estate being administered thereunder, that it may now be considered as the valid last will and testament of Junius W. Craig, deceased.

They respectfully represent and show, as is stated and shown in their said original bill, and as hereinbefore mentioned and set forth, that by said will it was first devised that all of the just debts of the testator should be paid; afterwards there was devised to Lewis E. Craig the sum of forty thousand dollars and to John P. Craig ten thousand, after which he devised to Emma J. Wright one-half of the annual profits of his estate during her lifetime, to be dis-
391 posed of as she might please, the other half to be applied towards improving his estate, &c., and at the death of the said Emma J. Wright the whole of his estate, less the amount *the amount* so devised to Lewis E. and John P. Craig, was devised to be sold, and the proceeds applied towards the erection of a college at Helena, Ark., and carrying on the same, and that Lewis E. Craig was ap-

pointed trustee to carry out said will in regard to the erection of a college, and in case of his death the city of Helena to appoint three trustees to carry out the same.

Wherefore they pray that Chas. H. Carlton, as administrator of the estate of Lewis E. Craig, deceased, and William B. Street, as administrator of the estate of John B. Craig, deceased, as aforesaid, and the said Emma J. Wright and the said City of Helena may be made parties to this bill; and as the said Lewis E. Craig, who is named in said will as trustee to carry out the intention of the
392 testator in erecting a college at Helena, is dead, your orators and oratrices are advised that the State of Arkansas is the proper trustee of such bequest; wherefore they pray that the State's attorney may be admonished of the pendency of this suit, that he may represent the interests of said trustee. They also pray that said Emma J. Wright, in her capacity as executrix of the last will and testament of Junius W. Craig, deceased, may also be made a party defendant to this bill.

Your orators and oratrices had well hoped that after the qualification of the said Emma J. Wright as executrix as aforesaid, she would, as she had so faithfully promised some of your orators and oratrices, have proceeded to a speedy settlement of said estate; and more especially, as she was a large legatee under the will of said deceased, and vitally interested in the preservation and proper application of said estate, did they hope they would preserve
393 and care for said estate and save the same from waste and destruction; but now so it is the conduct of the said Emma J., as such executrix, in attempting to get out letters upon said estate upon a bond entirely inadequate and insufficient, in refusing to make the sale of the lands of said estate to pay the debts as authorized by the *by the* probate court, in permitting the lands belonging to said estate, in the counties of Crittenden, Monroe, and Phillips, to be sold for taxes when she had in her hands ample and sufficient funds belonging to said estate to have paid said taxes, and also in permitting the very valuable lands belonging to said estate in Chicot county also to be sold for taxes, and permitting her father and agent to buy them in for her brother-in-law, and by setting up in said probate court her pretended right to subrogation for money paid out of her profits for the debts of said estate, all of which said several
394 actings and doings are hereinafter mentioned and described, has been such as to convince your orators and oratrices that it is not the intention of her, the said executrix, to pay the debts of said estate as long as she can avoid it, and they believe, and so charge, that she has been combining and confederating with divers other persons to your orators and oratrices as yet unknown, but whose names, when discovered, they pray may be inserted herein as defendants and they made parties hereto, with apt words to charge them, whereby she might absorb and consume said estate by permitting the same to be sold for taxes, and having it bought in, and thus defeat the rights of your orator- and oratrices in the premises. The said executrix alleges and pretends that she had no funds in her hands belonging to said estate with which to have paid said

taxes, but your orators and oratrices charge the contrary to
395 be the fact; that the said executrix had in her [hands] the sum of five thousand dollars, which had been paid her on account of the rent of the plantations belonging to said estate.

All of which actings, doings, and pretenses of the said Emma J. Wright, as such executrix, and of her said confederates, are contrary to equity and good conscience, and tend to the manifest wrong, injury, and oppression of your orators and oratrices in the premises.

In tender consideration whereof, and forasmuch as your orators and oratrices have already been greatly wronged and delayed in the collection of their just claims from said estate by reason of the factious contests and litigation that has been almost constantly carried on about the same, and are likely still to be harrassed by the petition for subrogation, &c., of the said Emma J. Wright; and also forasmuch as the said executrix has avowed that it was im-
396 possible for her to make a good and sufficient bond for the administration of said estate in the State of Arkansas, and your orators and oratrices have nothing to indemnify them against the waste and destruction of said estate, and without the intervention of a court of equity they will be greatly injured and oppressed in the premises.

To the end, therefore, that your orators' and oratrices' said original bill in this cause, and their suit and proceeding in that behalf, may stand revived against the said Emma J. Wright, in her individual capacity, and also in her capacity as executrix of the last will and testament of Junius W. Craig, deceased, and against the said Charles H. Carlton, as administrator of the estate of Lewis E. Craig, deceased, and William B. Street, as administrator of the estate of John P. Craig, deceased, and against the City of He-
397 lena, and be in the same plight and condition as they were at the time when the said decree of this court setting aside said compromise decree, and when the said Joshua M. Craig was removed as administrator of said estate, and the said Emma J. Wright became and qualified as such executrix as aforesaid.

And that all the parties hereto may be made and considered as parties to said original bill and required to answer the same, and that they and each of them be required to answer all and singular the allegations and charges contained in this supplement as fully and particularly as if the same were herein again repeated and they thereunto particularly interrogated.

And that your orators and oratrices may have the specific relief prayed for by said original bill; that is to say, and they do here again pray that said estate may be taken charge of by this
398 court and the assets thereof marshalled and applied to the payment of the just debts; that the respective mortgages and liens of your orators and oratrices on the specified property of said estate may be enforced, and that said estate may be decreed to be sold and the proceeds thereof paid into court here to be marshalled and applied to the payment of the several liens and claims in their proper order and classification, and that the said Emma J. Wright may be relieved of the administration of said estate; to which end

they do again specially pray your honor to appoint a receiver to take charge of the property of said estate, and to manage and preserve the same, to make settlement with the said Emma J. Wright, and receive from her all the assets and choses in action in her hands, and to dispense the same under the order of this court and apply the proceeds to the payment of the debts of said estate; and that your orator and oratrices may have such other and further
399 relief as the nature of their case demands and as to your honor shall seem just.

And your orator and oratrices pray that they may have the State's writ of subpœna, and the necessary order of publication against the several defendants named herein, requiring them and each of them to answer herein, &c., and as in duty bound your orator and oratrices will ever pray, &c.

CHAPMAN & CARLTON,
Solicitors.

STATE OF ARKANSAS, *County of Chicot:*

I, C. H. Carlton, do solemnly swear that Emma J. Wright, who is named as defendant in the foregoing bill, in her individual capacity, and also as executrix of the estate of Junius W. Craig, deceased, is not a resident of the State of Arkansas. So help me God.

C. H. CARLTON.

Subscribed & sworn to before me, clerk of Chicot circuit court, this August 30th, 1867.

400 JAS. McMURRAY, *Clerk*,
By C. W. FRY, *D. C.*

I, C. H. Carlton, acknowledge myself to owe and be indebted to Emma J. Wright, and the rest of the defendants named in the foregoing bill of revivor and supplement in the sum of one hundred dollars.

Witness my hand and seal, this the 29th day of August, A. D. 1867. The condition of this obligation is such that if I pay all the costs that may accrue in the above and foregoing bill of revivor and supplement, then and in that event the above obligation is to be void and of no effect; otherwise to remain in full force and virtue.

C. H. CARLTON. [SEAL.]

EXHIBIT X.

This indenture, made this 5th December, 1856, between
401 Lucy D. Craig, of the city of Lexington and State of Kentucky, of the first part, and Junius W. Craig, of the county of Chicot and State of Arkansas, of the second part, witnesseth:

That for and in consideration of the sum of fifty thousand dollars, of which $8,333.33 was paid on the 17th of March, 1856; $8,333.33, with interest from the 17th of March, 1856, at the rate of six per cent. per annum, to be paid on the 17th of March, 1857, for which a draft for even date herewith has been drawn by the said J.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, on this 30th of August, 1867.

JAS. McMURRAY, *Clerk*,
By C. W. FRY, *Dep'ty Clerk*.

(Sheriff's return endorsed thereon:) I executed the within subpœna at Phillips county, Arkansas, on the 2nd day of Nov.,
408 1867, by reading the same to his honor, Jessie A. Jackson, mayor City of Helena, and by furnishing him a true & correct copy of the same. Bart Y. Turner, sheriff.

STATE OF ARKANSAS, } ss:
Chicot County, }

The State of Arkansas to the sheriff of Chicot county, Greeting:

You are hereby commanded to summon C. H. Carlton as adm'r of L. E. Craig, dec'd; W. B. Street as adm'r of John P. Craig, dec'd; Emma J. Wright, and the said Emma J. Wright as executrix of J. W. Craig, dec'd, if they be found within your bailwick, to appear before the judge of our circuit court of Chicot county in chancery sitting, at the court-house in the county aforesaid, on the first day of our next December term, at the court to be holden on the first Monday of December next, then and there to answer the
409 creditors of Junius W. Craig, deceased, of the bill of revivor and supplement, and that you make due return of this subpœna to our said court.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, on this 30th day of August, 1867.

JAS. McMURRAY, *Clerk*,
By C. W. FRY, *Dep'ty Clerk*.

(Endorsed thereon:) Came to my hands this 2nd day of Sept., A. D. 1867. Thos. Hunnicutt, sheriff, by R. M. Fry, D. S.

I hereby acknowledge service of the within writ, this Sept. 2nd, 1867.
WM. B. STREET, *Adm'r*.

I acknowledge service of the within summons on me, this 13th day of September, A. D. 1867.
C. H. CARLTON, *Adm'r*.

This writ is returned with services acknowledged as above.
THOS. HUNNICUT, *Sheriff*,
By R. M. FRY, *D. S.*

410 Copy.

STATE OF ARKANSAS, *County of Chicot:*

Be it remembered that on this third day of Dec., 1867, personally appeared before the undersigned, clerk of the circuit court of the county of Chicot, Geo. C. Gatewood, one of the publishers of the Chicot Press, a newspaper published in the town of Lake Village, who, being duly sworn, deposeth and saith: That an order of the

chancery court of Chicot Co., Arkansas, in the case of Creditors of James W. Craig, deceased, *vs.* Bill of Revivor and Supplement, Emma J. Wright and others, (a true copy of which is hereto affixed,) has been published in said paper for two successive weeks, the first insertion of which was on the 21st day of September, 1867, and last on the 28th day of September, 1867.

GEO. C. GATEWOOD,
Pub. Chicot Press.

Subscribed & sworn to before me, this third day of December, 1867.
JAS. McMURRAY, *Clerk*,
By C. W. FRY, *D. C.*

411 *A Bill of Revivor & Supplement.*

Copy.

STATE OF ARKANSAS, }
County of Chicot, } *ss:*

In the Chicot Circuit Court, in Chancery. In Vacation, Aug. 30, A. D. 1867.

CREDITORS OF JUNIUS W. CRAIG, Dec's'd
v.
EMMA J. WRIGHT & Others.

This day come the complainants, by their solicitors, and file here their bill of revivor and supplement to their original bill, now on file in this office, the object of which is to subject the estate of the said Junius W. Craig, deceased, to the payment of his debts, and the said complainants having also filed here an affidavit that a part of said defendants named in said bill of revivor and supplement, to wit, Emma J. Wright, and the said Emma J. Wright, as executrix of
412 the last will and testament of the said Junius W. Craig, deceased, are non-residents of the State of Arkansas. It is therefore, on motion of said complainants, ordered that said non-resident defendants be notified of the filing of said bill of revivor and supplement, the object of which is, as above set forth; and that they be required to appear before the judge of our said circuit court, in chancery sitting, on or before the third day of the next Dec. term of said court, at a court to be begun and held at the court-house of said county, in the town of Lake Village, on Monday, the second day of Dec. next after the date hereof, and then and there plead, answer, or demur to said bill, or the same will be taken as confessed and a decree entered accordingly.

Attest: JAMES McMURRAY, *Clerk.*

A true copy from the record.
Attest: JAMES McMURRAY, *Clerk.*

Sept. 21–2w.

413 *Pro-f Publication.* 22*nd.*

CREDITORS OF JAMES W. CRAIG, Deceased,
vs.
EMMA J. WRIGHT *et al.* } 114. Chancery.

Filed in open court Dec. 4th, A. D., 1867.
JAS. McMURRAY, *Clerk.*

Bill of Revivor and Supplement.

In Chancery. December Term, 1867.

CREDITORS OF JAMES W. CRAIG, Dec's'd, *v.* EMMA J. WRIGHT *et al.*

The demurrer of Emma J. Wright, one of the defendants, to said bill, in her individual right, as also in her capacity of executrix of the last will and testament of said Junius W. Craig, dec's'd, to said bill of complaint.

This defendant, by protestation, not confessing or acknowledging any of the matters and things in said bill set forth to be true, in such sort, manner, and form as the same are therein set forth and alleged, for demurrer thereunto, says:

414 First. That a court of chancery has no jurisdiction of the subject-matter, as the same are alleged and set forth in said bill of revivor and supplement.

Secondly. That said bill is multifarious in this, that it sets up and alleges several and distinct matters and causes of complaint that have no relation to or defence on each other, so far as this defendant is concerned, in her said several capacities, by reason of which matters being so mingled said bill is spun out to unreasonable length and causing unnecessary charges in relation thereunto.

Thirdly. This defendant is improperly joined in said bill, in her said several capacities, as also in relation to the other defendants, she and they having no joint interests nor concern in the matters and things, as set forth and alleged in the bill of said complaint.

415 Fourthly. The said complainants have a clear remedy at law for each and all the matters and things set up in said bill, and the same are within the exclusive cognizance of another and different court of competent jurisdiction.

Fifthly. It appears from the plaintiff's own showing in his said bill that such and all the matters and things so set forth are triable at law. Wherefore, and forasmuch as said bill doth not contain, as this defendant is advised, any matter of equity sufficient to establish any right or demand against this defendant in either of her said capacities, nor to draw her into this honorable court touching said bill, and also for many other errors and imperfections in said bill, she doth demur thereto, and craves the judgment of the court whether she ought to make any answer to said bill, and she therefore prays to be dismissed with her costs in this behalf most wrongfully sustained.

416 ROBINSON, LEWIS AND CRACRAFT,
Sol's for Def't.

Demurrer.

CREDITORS OF JUNIUS W. CRAIG
vs.
EMMA J. WRIGHT, Ex'r'x, &c,

Filed in open court, this 4th day of December, 1867.
JAS. McMURRAY, *Clerk.*
R., L. & C., *Attorneys.*

At the December term, 1867, of the Chicot circuit court, in chancery, on the 11th day of December, 1867, a day of said term of said court, among others the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG
vs.
EMMA J. WRIGHT *et al.* } 82.

This day comes A. D. Kelly, one of the complainants herein, by his solicitors, and files here his answer to the cross-matter
417 in answer of Emma J. Wright *et al.*, heretofore filed in this cause.

CREDITORS OF JUNIUS W. CRAIG
vs.
EMMA J. WRIGHT *et al.* } Original Bill.

and

EMMA J. WRIGHT *et al.*
vs.
WILLIAM W. FRAZIER *et al.* } Cross-bill.

In the Chicot Circuit Court. In Chancery. Spring Term thereof, A. D. 1867.

The separate answer of Alexander D. Kelly, one of the firm of A. D. Kelly & Co., and who answers for himself and the said A. D. Kelly & Co., to the answer and cross-bill of Emma J. Wright, William P. Halliday, Thomas T. Wright, and Eliza Wright, his wife, and the City of Helena, in the State of Arkansas, heretofore filed in this cause.

This respondent, now and at all times hereafter saving and reserving to himself any and all manner of benefit or advant-
418 age which may arise from the many errors and imperfections in said cross-bill contained, for answer thereunto, or unto so much thereof as he is advised is material for him or the said A. D. Kelly & Co. to make answer unto, answers and says:

That he denies and disclaims any and all knowledge of or interest in the original bill filed in this cause by the creditors of Junius W. Craig against the said Emma J. Wright and others. He admits that the said A. D. Kelly & Co. did at one time own a large claim against the estate of Junius W. Craig, deceased, which claim had been regularly probated according to law, and allowed by the ad-

ministrator of said estate, and filed and classed in the probate court of Chicot county, as will more fully appear, reference being made to a duly certified copy of the order of said probate court allowing and classing said claim, hereto annexed, marked Exhibit X No. 1, and asked to be considered as a part of this answer; but he avers
419 and charges that long before the filing of said bill the said A. D. Kelly & Co. had, for a full and valuable consideration, assigned all interest they had in said claim to one William W. Frazier, which said assignment, with such payments as had been made — said claim before the date of said assignment, were all endorsed upon the margin of the original entry of allowance and classification in the record of *of* said probate court, and as will also appear from the certified copy of such entry, heretofore exhibited herewith. This respondent denies that up to the date of said assignment to the said William W. Frazier any part of said claim had been in any manner paid off or satisfied, except what is credited on the margin of said original entry. As to whether the balance of said claim has ever been paid to the said W. W. Frazier, this responent is unable to say positively, but to the best of his information and belief he does not
420 believe the same has ever been paid. Respondent denies that the said Joshua M. Craig ever instructed the firm of A. D. Kelly & Co. not to pay his drafts upon them, or that their failure to pay the same was in consequence of any such instructions, but that they failed to pay any drafts drawn on them by the said Joshua M. Craig, solely because they had no means in their hands with which to pay the same, and he avers and charges that so long as he had funds in the hands of said A. D. Kelly & Co. the drafts or bills of the said Craig were always paid.

This respondent knows nothing about the competency or incompetency of the said J. M. Craig to administer the estate of Junius W. Craig, deceased, nor does he know anything about whether said estate has been so far justly or honestly administered by the said J. M. Craig or not; respondent and the firm of A. D. Kelly & Co. were, at the time of the death of the said Junius W. Craig,
421 and so continued until the beginning of the late war, commission merchants and cotton factors, doing business in the city of New Orleans, Louisiana, and the only relation they ever had with the said Joshua M. Craig was that of factor and agents; as such their accounts current have been regularly sent to him, and respondent is informed and believes that said accounts current have been by him each year filed with his annual settlement in the probate court of Chicot, each of which said settlements has been approved by said court, and this respondent makes reference to said annual settlements and account current now on file in said probate court, and prays that they may be considered herewith. And this respondent, for more particular answer to the special interrogatories contained in said cross-bill, or to such of them as are specially propounded to him or to the said A. D. Kelly & Co., answers and says (to interrogatory numbered 4):

That the amount of cotton shipped to them, the said A. D.
422 Kelly & Co., during the year in said cross-bill mentioned, and

the disposition of said cotton are set out in the various accounts of sale and accounts current, rendered to J. M. Craig and J. R. Llewellyn, as joint administrators, and said J. M. Craig, as sole administrator of said estate, which said several accounts of sales and accounts current, as they are informed and verily believe, were filed by the said Craig and Llewellyn and Craig with the annual settlements of said estate in the probate court of said county of Chicot, and now remain on file, as they are informed and verily believe, copies of which, if necessary, will be filed with this answer.

The said cotton was disposed of as in said accounts current stated.

That as to the interrogatory why it was that so much money belonging to said estate passing through their hands they did not receive enough to liquidate their debt, they can only say that having full confidence that the estate of said J. W. Craig was solv-
423 ent, and that in the working of the plantations belonging to it their claim was secure, they permitted the said several administrators to pay other demands against the estate to the exclusion of their debt; and that this was in accordance with the custom of commission merchants in similar cases, and there is no doubt but they would have been paid, had not the war broken out, which suspended planting and swept away slavery.

Further answering, they say that they assigned said claim to said William W. Frazier to pay a large claim due from the said A. D. Kelly & Co. to the wife and daughter of said Frazier, which was a valid and just debt.

Without this, that there is any allegation or charge in said answer and cross-bill contained, and not herein specifically denied, is true in substance and fact.

And this respondent, having fully answered said cross-bill,
424 prays that he and the said A. D. Kelly & Co. may be discharged from the same with all their costs in that behalf sustained.

A. D. KELLY.

STATE OF LOUISIANA, *City of New Orleans:*

Before me, William Shannon, a commissioner for Arkansas, and residing in said city, personally came Alexander D. Kelly, respondent in the foregoing answer, who, being first duly sworn, says on oath that the matters and things contained in said answer are true, so far as stated on his own knowledge, and so far as stated on the information of others he believes them to be true.

[SEAL.] WILLIAM SHANNON, *Com'r.*

Endorsed: Filed Dec. 11, 1867. James McMurray, clerk.

425 At the December term, 1867, of the Chicot circuit court, in chancery, on the 11th day of December, 1867, a day of said term of said court, among others the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG *vs.* EMMA J. WRIGHT *et al.* } 114. On Bill of Revivor & Supplement.

Come the parties, by their solicitors, and the demurrer heretofore

filed in this cause by Emma J. Wright, as ex'trix of J. W. Craig, dec's'd, and in her own right, now coming up for hearing and argument, it is after such hearing and argument considered by the court that said demurer be overruled; and it appearing that Charles H. Carlton, as adm'r of Lewis E. Craig, and William B. Street, as adm'r of John P. Craig, dec'd, have been duly and in due time served with process of subpœna herein, and they not appearing to plead,
426 answer, or demur in this cause, and the defendant, Emma J. Wright, as ex'trix of said J. W. Craig, deceased, and in her capacity as legatee under the will of said J. W. Craig, deceased, in her own right, having been duly notified by publication of the pendancy, nature, and object of this bill, and she having failed to file any further answer to this bill, after the overruling of her demurrer herein, it is therefore ordered, adjudged, and decreed by the court that the said bill of revivor and supplement, and all and singular the allegations and charges therein contained, be taken as confessed by all of said defendants.

At the December term, 1867, of the Chicot circuit court, in chancery, on the 13th day of December, 1876, a day of said term of said court, among others the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG, *v.* EMMA J. WRIGHT *et al.* } 114. On Bill of Revivor, &c.

427 Comes the complainants, by solicitor, and file here their application for a receivor in this cause.

Chicot Circuit Court In Chancery. At the December Term, 1867

CREDITORS OF J. W. CRAIG, Deceased, *vs.* EMMA J. WRIGHT *et al.* } 82.

Comes the said complainants and moves the court here for the appointment of a receiver in this cause, and as an eminent and present cause for the same would respectfully represent and state that the said Emma J. Wright, as such executrix of the estate of J. W. Craig, has never given any good and sufficient bond for the faithful performance of her duties as such, as she is by law required to do.

That the said executrix is fraudulently attempting to subvert and destroy the rights and interests of said complainants in said estate, as they are informed and believe.

428 That said executrix, since she qualified as such and took charge of said estate, has fraudulently permitted and connived at the sale of said estate for taxes, when she had funds in her hands belonging to said estate, for the purpose, as said complainants are informed and believe, of appropriating said estate to her own use, and of defeating and defrauding said complainants of their just rights in regard to the same. And your complainants do verily believe that the appointment of a receiver for said estate is actually

necessary for the preservation of the same, and that the same may be appropriated and applied to its legitimate and legal uses and purposes. Wherefore the said complainants pray that a receiver may be appointed to take —— of said estate under the charge and direction of this court, and would respectfully suggest the appointment of D. H. Reynolds as such receiver, &c.

CHAPMAN & CARLTON, *Sol's, &c.*

429 STATE OF ARKANSAS, *County of Chicot:*

I, William H. Todd, one of the complainants in the foregoing cause, do solemnly swear that the matters and things contained in the foregoing application are true so far as stated on the knowledge of the said complainants, and so far as stated on information and belief I believe them to be true, so help me God.

Sworn to before me, this 12th day of December, 1867.

JAS. McMURRAY, *Clerk.*

Endorsed as follows: Filed in open court Dec. 13, 1867. Jas. McMurray, clerk, by C. W. Fry, D. C.

At the December term, 1867, of the Chicot circuit court, in chancery, on the 14th day of December, 1867, a day of said term of said court, among others the following proceedings were had, viz:

430 THE CREDITORS OF JUNIUS W. CRAIG *vs.* EMMA J. WRIGHT, as Ex'r, *et al.* } 83.

This day came the complainants, and it appearing that each and all of the defendants herein have been duly and in time served with notice of the object and pendancy of this suit, and no answer having been filed by any of them, it is by the court ordered that the bill and supplemental bill herein, each and every allegation therein, be taken for confessed against them.

And thereupon came the complainants, and also the said Emma J. Wright, as legatee, and as executrix of the said Junius W., and complainants' motion for the appointment of a receiver herein was heard, and after argument thereof the court doth refuse to appoint said receiver, and continues such motion until the next term, with leave to the parties defendants to contest the same by counter-
431 affidavits and proofs, if they see fit, and this cause is continued until the next term.

LAKE VILLAGE, CHICOT CO., *16th December*, 1876.

As attorney for Emma J. Wright, as executrix of the will of Junius W. Craig, and legatee under said will, I do authorize and empower Johnson Chapman, Esq., to withdraw the appeal taken by her from the decision and judgment of the Chicot circuit court in the suit of William H. Todd *v.* James F. Robinson and Emma J. Wright, as executrix, in ejectment, and also to withdraw her opposition to the appointment of a receiver in the suit in chancery of The

Creditors of Junius W. Craig against the executrix, legatee, and heirs, and to permit decree to go in said cause according to the prayer of the original bill, and also to dismiss the suit in chancery of Emma J. Wright, as executrix, against Alexander D. Kelly, Geo. A. D. Kemper, William W. Frazier, and William H. Todd.

432 All which is to be done without any judgment against her for any of the costs of the said suits.

ALBERT PIKE, *Att'y, &c.*

(Endorsed:) Filed in open court Dec. 16, 1867. Jas. McMurray, clerk.

At the December term, 1867, of the Chicot circuit court in chancery, on the 15th day of December, 1867, a day of said term of said court, among others, the following proceedings were had, viz:

THE CREDITORS OF JUNIUS W. CRAIG
v.
EMMA J. WRIGHT *et al.* } 82.

This day came the parties aforesaid, and the order heretofore entered at this term continuing this cause is by consent set aside, and thereupon all opposition to the appointment of a receiver herein is withdrawn, and such appointment is consented and agreed to by the parties, and at the suggestion, or on motion of complain-

433 ants, it is by the court ordered that Johnson Chapman, Esq., be, and he is now, appointed as such receiver, and his bond, with Joseph S. Woolfolk and William A. Todd as his securities, in the sum of twenty thousand dollars ($20,000$^{00}_{100}$) conditioned that he, the said Johnson Chapman, will take and receive into his hands all the lands, tenements, moneys, credits, and effects of the estate of said Junius W. Craig, and well and truly manage and control the same, as ordered and directed by the court, and keep and render a true and correct account thereof when required by the court, and to well and truly do and perform all things that may be required of him by the court as such receiver, being filed, the same is by the court approved.

Whereupon it is ordered by the court that said Chapman do proceed to collect and take charge of all the assets of said estate of any and all kinds, and that said Emma J. Wright, as executrix,

434 turn over into his hands all the assets of any and every description that she may have in her possession, as well as all papers, choses in action, or evidences of debt, belonging to said estate, and that said receiver make out a full statement of the debts and liabilities of said estate, together with all the property and assets belonging to the same, with a full statement of the liens, their dates, amounts, the property liable, or to which the liens attach, and the nature and character of such liens; that after making out such statement he will proceed to sell the lands belonging to said estate to the highest bidder, for cash in hand, at public sale, in the county or counties where such lands are situate, after giving at least four weeks' notice of the time, place, and terms of such sales, by publica-

tion in the Daily Appeal, a newspaper published at Memphis, in the State of Tennessee, by twenty-four insertions, and by four weekly insertions in the Chicot Press, a newspaper published in Lake Village, in said county of Chicot, and such sales will be so made
435 as to dispose of certain lands to satisfy the particular liens that may exist on them, commencing with the liens prior in time. Said receiver will include all advertisements of sales in one notice, and make said sales before the 1st Monday of June next, and he will make a full and complete report of his acts and doings in the premises at the next term of this court, and return then the amount of any money realized from said sales, and until that time this cause is continued.

Receiver's Bond.

Know all men by these presents, that I, Johnson Chapman, as principal, and we, James S. Woolfolk and William H. Todd, as securities, acknowledge ourselves to owe and be indebted to the creditors and heirs and legatees of the estate of Junius W. Craig, deceased, in the just and full sum of twenty thousand dollars ($20,000.00), for the payment whereof, well and truly to be made, we do
436 hereby bind ourselves, our heirs, and executors, respectively, conditioned that as the said Johnson Chapman is appointed receiver of the assets, real and personal, of the estate of said Junius W., as aforesaid, by the court of chancery in and for the county of Chicot, State of Arkansas:

Now, if the said Chapman will proceed to take charge of and collect the assets aforesaid, to possess himself of the lands and tenements, credits, moneys, and effects thereof, and render to said court a full and true account thereof, when directed by said court, and to well and truly do and perform all things, as such receiver, that may be required of him by said court, and account for his acts and doings, as such receiver, when required by the court, then this obligation is to be void.

Witness our hands and seals, this 16th December, 1867.

JOHNSON CHAPMAN. [SEAL.]
WM. H. TODD. [SEAL.]
JOS. S. WOOLFOLK. [SEAL.]

437 (Endorsed:) Filed in open court December 16, 1867. Jas. McMurray, clerk.

At the October term, 1868, of the Chicot circuit court, on the 21st day of October, 1868, a day of said term of said court, among others, the following proceedings were had, to wit:

CREDITORS OF J. W. CRAIG
v.
EMMA J. WRIGHT *et al.* } 82 & 114.

Come the complainants, by solicitors, and suggest and prove to the court the death of Johnson Chapman, who was appointed re-

ceiver in this cause, and on motion it is ordered that Charles W. Fry be, and he is hereby, appointed in stead of the said J. Chapman, deceased.

Order relative to Receiver's Report.

438 At the October term, 1868, of the Chicot circuit court, in chancery, on the 28th day of October, 1868, a day of said term of said court, among others the following proceedings were had, to wit:

THE CREDITORS OF THE ESTATE OF JUNIUS W. CRAIG, Deceased.
v.
EMMA J. WRIGHT, as Executrix of the last Will and Testament of Junius W. Craig, Deceased, *et al.* } 82.

This day comes Charles W. Fry, Esq., who has been appointed receiver of the estate of Junius W. Craig, deceased, in the place and stead of Johnson Chapman, Esq., [who] was the receiver, and has departed this life. And the said Charles W. Fry presents to the court here the report made out by the said Johnson Chapman of his action as receiver under the decree of this court, including the sales made by him of the lands of the said estate, accompanying which
439 is a deed signed by said Johnson Chapman to William H. Todd for lands purchased by him, and a deed of quit-claim to Charles H. Carlton, as trustee, which report said receiver asks the court here to receive and adopt.

It is therefore ordered by the court that the said report be received and placed on file, with the said motion and prayer of the said receiver.

By which report it appeared that the said Johnson Chapman, as receiver, by notice given by advertisement in conformity to the decree in this case, did sell at public auction to the last and highest bidder, for cash in hand, at the front door of the court-house, in Lake Village, all the lands lying in the Chicot county, on the 16th day of March, A. D. 1868, between the hours for judicial sales; all the lands of said estate lying in Desha county, at the front door of the court-house of that county, on the 17th day of the same March,
440 and between the same hours; all the lands of said estate lying in Phillips county, at the front door of the court-house of that county, on the 21st day of the same month, and between the same hours; all the lands of the said estate lying in Drew county, at the front door of the court-house of that county, on the 23d day of the same month, and between the same hours; all the lands lying in Crittenden county, at the front door of the court-house of that county, on the 31st day of the same month, and between the same hours; and all the lands of said estate lying in the county of Monroe were sold at the front door of the court-house in that county, on the 26th day of the same month, and between the same hours; and the said late receiver also reports that William H. Todd purchased the plantation, known as the Yellow Bayou, for the sum of thirty

thousand dollars; the plantation known as Bellevue for thirty-
441 five thousand dollars, and the unimproved lands in Chicot county as two dollars per acre, except one tract which he purchased for five cents per acre; that the said William H. Todd purchased all the lands of the estate in Phillips county for $5,284.05, all the lands situate in Monroe county for $8,524.44, and all the lands situate in Desha county for $3,[illegible]2.33; that the lands in Drew county were purchased by William F. Slemmons and William F. Wills for one hundred dollars, and the lands in Crittenden county by Charles H. Carlton, as trustee, for one cent per acre; these lands having been sold for taxes and the time limited for redemption having elapsed. And the said late receiver further reports that Lucy D. Woolfolk and Joseph S. Woolfolk are entitled to receive out of the purchase-money of the Bellevue plantation and of the unimproved lands in Chicot county the sum of nine thousand eight hundred and thirty-one dollars.

442 Upon consideration of which report, and no objections or grounds of exception being taken by any party, and none appearing to the court as to the said sales, it is ordered, adjudged, and decreed that they be confirmed.

And inasmuch as the decree in this cause directed that the sales of the lands to be made under it should be so made as to dispose of certain lands to satisfy the particular lines that existed on them, and inasmuch as the said lands comprising the Yellow Bayou plantation, as the same were specified in Schedule "C," appended to the said report, were mortgaged to William H. Todd by Junius W. Craig and Leland P. Craig on the first day of January, 1856, by deed duly acknowledged and recorded, to secure the payment of the sum of forty-eight thousand dollars, evidenced by four several promissory notes, each for twelve thousand dollars, *one* at one, two, three,
443 and four years from this date, and each bearing interest at the rate of ten per cent. per annum from their date, of which sum so secured there was due to the said William H. Todd on the said 16th day of March, A. D. 1868, for principal and interest the sum of fifty-eight thousand two hundred and twenty-one dollars, as is shown by Schedule "B" of the said report.

And inasmuch as Lucy D. Woolfolk, wife of Joseph S. Woolfolk, who was Lucy D. Craig, wife and widow of Leland P. Craig, holds a lien, effectual as and by way of mortgage, and secured by the deed dated December 5th, 1856, to Junius W. Craig, upon one-fourth of the lands comprising the said Bellevue plantation, as these are shown by said Schedule "C," and also upon certain improved lands of said estate in said county of Chicot, as shown by the said schedule, which lien was reserved to secure the payment of forty-one thousand six hundred and sixty-six dollars due by draft and notes in the
444 years 1857 to 1861, on which was due the principal and interest, as shown by said Schedule "B" of said report, on the 1st day of June, 1868, the sum of sixty-two thousand seven hundred and sixty-five dollars and seven cents.

And inasmuch as the said mortgage of the said William H. Todd and the said deed of the said Lucy D. Craig reserving such lien

were before the court here in this case, and all the rights of the said parties under each respectively were demanded, considered, and undisputed, and the sales of said mortgaged lands were ordered to be made, and were made, under the said mortgage and lien as upon foreclosure, and were not sales of the equity redemption alone, but of that and the mortgage interest, that is to say, of the whole fee relieved of the lien, and as the said sum of thirty thousand dollars so as aforesaid bid by the said William H. Todd for the said
445 lands comprising the Yellow Bayou plantation is but so much to be credited upon his claim against the said estate, leaving the residue still unpaid to him, to wit, the sum of twenty-eight thousand two hundred and twenty-one dollars due the 6th of March, A. D. 1868, and as one-fourth of the said sum of thirty-five thousand dollars bid by said Wm. H. Todd for the said lands comprising the Bellevue plantation, and of four thousand three hundred and twenty-five dollars bid by him for the unimproved lands aforesaid, sold under said lien of said Lucy D. Woolfolk, as well as under said deed, belongs absolutely, and is to be paid to, the said Lucy D. and Joseph S. Woolfolk, who do now here, by their solicitors, consent and agree to accept therefor the notes of the said William H. Todd, payable at one and two years from their date, and do consent that title
446 may be made to him in fee-simple absolute under her said purchase to the undivided fourth of all said lands on which the said Lucy D. Woolfolk held her said lien.

And inasmuch as the said William H. Todd, as assignee of A. D. Kelly & Co., holds and is the owner of a claim and allowance against said estate, amounting, as shown by said Schedule "C," on the 16th day of March, 1868, to $51,323.38, and the remaining debts of said estate are, as shown by said schedule, a claim of R. A. Goodloe, amounting on the first of June, 1868, to $320.50; one of C. W. Saunders, then amounting to $235.60; one of the executrix of Hosea George, amounting, on the 1st of August, 1867, to $2,362.89; one of Leland W. Peake, amounting on the 1st of June, 1868, to $4,358.50; one of the same party, then amounting to $5,358.84; one in favor of George Hancock, then amounting to $5,138.97; and one in favor of Horace F. Walworth, in the fifth class, then amounting to $30,638.63.

447 And inasmuch as there have also been [allowed] by the probate court of Chicot county, as expenses of administration to Joshua M. Craig, administrator, $5,389.05; to Street and Craig, $63.00 and $368.88; to Wm. P. Halliday, executor, $8,983.00; to Emma J. Wright, executrix, $10,917.12; and to Robinson, Lewis and Cracraft $1,000.00; which allowance in favor of the said Emma J. Wright and William P. Halliday are pending in the circuit court here on appeal of the creditors of said estate.

And inasmuch as the said expenses of administration, as finally allowed and adjudged, must be paid out of the purchase-money bid for the lands of said estate not mortgaged, if not paid out of the choses in action, and as the purchase-money of the three unmortgaged fourth- of said Bellevue lands and of the other lands, whereof

one-fourth was charged with said lien of said Lucy D.
448 Woolfolk and the purchase-money of all the unincumbered lands bought by the said William H. Todd, after expenses of administration are ascertained and paid, will be distributable among the creditors in due course and order of administration according as their claims are classed, and in proportion to the unpaid residues of the credits and claims in the respective classes; and as the said William H. Todd has paid said Johnson Chapman the sum of three hundred and fifty-one dollars:

It is therefore ordered, adjudged, and decreed that the receiver in this case, Charles W. Fry, Esq., do, as commissioner, convey to the said William H. Todd by deed reciting his mortgage and the decree in this case, and the sale under the same, and the substance of this order, to convey all the lands so mortgaged to him for the
449 consideration of thirty thousand dollars, to be credited on his said mortgage and against the allowance in his favor in the said probate court, as of the 16th of March, A. D. 1868.

And that upon the execution by the said William H. Todd of a bond in the penalty of thirty-five thousand dollars to the said Charles W. Fry, as receiver, for the use and benefit of all parties interested, conditioned that he will, upon the order of the court here, promptly pay into court such sums as may by this court, or any other competent tribunal, be adjudged to be payable by him, out of the said purchase-money of the said mortgaged lands and tenements, to any person or persons for costs or as expenses of the administration of said estate, or as dividend or dividends upon any — their claims and allowances against the said estate, and upon the due acknowledgment by him of the said bond, and its filing in and approval by the court, the said receiver do by like deed
450 convey to him, for the consideration bid for the same, all the other lands purchased by him lying in said county of Chicot, reciting the said lien of the said Lucy D. Woolfolk, with the other necessary recitals as hereinbefore directed, and reciting also the payment of the said Lucy D. Woolfolk and Joseph S. Woolfolk of said sum of nine thousand eight hundred and thirty-one dollars as the price of the entire title in fee simple absolute of and to an undivided fourth of said Bellevue and other lands sold under the said lien, which sum shall be credited against the allowance in favor of these parties in the probate court, as of the 16th of March, A. D. 1868, which bond, being filed here, shall operate, by virtue of this decree, as a lien upon *the* all the lands purchased by the said William H. Todd lying in the counties of Chicot, Phillips, and
451 Monroe, except those so far as aforesaid mortgaged to himself, and the interest on which the said Lucy Woolfolk held her lien; and upon failure of the said William H. Todd to faithfully perform and fulfill the condition of his said bond, and to pay annonies ordered by the court here to be paid, the lien herein provided shall be immediately enforced by order of the court, and performance may likewise be compelled by attachment.

And it is further ordered, adjudged, and decreed that the said receiver, Charles W. Fry, do also convey to the said William H. Todd,

upon the execution, acknowledgment, and filing by him of the bond aforesaid and its approval by the court here, by separate deeds, the said lands in the counties of Phillips and Monroe so purchased by him as aforesaid, and that the said William H. Todd, having
452 paid the said sum of three thousand and fifty-one dollars, and desiring that the same may be applied to the payment of the prior bid by him for the said lands in the county of Desha, the price so bid being three hundred and seventy-two dollars and ninety-three cents, the said receiver do convey the said lands in the county of Desha to him upon payment of the residue of the price, that is to say, the sum of twenty-one & $\frac{93}{100}$ dollars; and that he convey to the purchasers of said land in the county of Drew the lands purchased by them, if the same have not been conveyed by the former receiver, his report showing that the purchase-money of the same was paid to him; and that he convey unto such person as the said Charles H. Carlton shall appoint the lands sold in the county of Crittenden, upon payment of the amount bid and offered
453 therefor, as shown by the said report.

And Charles H. Carlton, Esq., administrator of the estate of Johnson Chapman, deceased, requesting the court to fix and allow the compensation to be paid to the said Johnson Chapman, deceased, as receiver, for his services as such, including the making of said sales, and it appearing that he acted as such from the time of his appointment at the December term of the court here, 1867, until his death on the —— day of ———, 1868, the court thinks that the sum of $1,150.00 *dollars* is a reasonable compensation for his said services, and doth order and adjudge that so much, less by one hundred and thirty dollars, the balance of monies reported by him as in
454 his hands, be paid to the said administrator by the said William H. Todd out of the purchase-money subject to distribution as aforesaid; and the said receiver, Charles W. Fry, is directed to proceed to collect as speedily as possible the available assets of the said estate, and to enforce the mortgage and liens on lands which have been in the hands of the administrator and executrix, and of the said Johnson Chapman as receiver, and that he make report of his action to the next term of the court here.

And it is further ordered that the costs of the making and execution of the said deeds and of stamps thereon be paid with the costs of the suit by the said William H. Todd out of the said purchase money so to be distributed.

And thereupon comes the said William H. Todd and here
455 acknowledges and files the bond required by this order, which is upon examination thereof approved by the court.

In the Chicot Circuit Court. In Chancery.

THE CREDITORS OF THE ESTATE OF JUNIUS W. CRAIG, dec'd,

vs.

EMMA J. WRIGHT, as Executrix of the last Will and Testament of said deceased, and as Legatee under said Will, and others.

To the Hon. the judge of the Chicot circuit court, chancery sitting:

The undersigned, Johnson Chapman, as receiver of the estate of

Junius W. Craig, dec'd, duly appointed as such in and by decree rendered in the above-entitled cause at the December term, A. D. 1867, of your honorable court, hereby respectfully reports unto
456 your honor that in obedience to the order and direction in said decree contained he had [pro]ceeded with all due speed to collect and take charge of the assets of said estate which consisted of certain bills receivable or attorneys receipt for bills receivable, a schedule of which is hereto annexed and made part of this report, marked "Schedule A."

He further reports that the debts and liabilities (with interest calculated upon the same) due from said estate, so far as he has been able to ascertain them, with a statement of their priorities and property mortgaged to secure the same, are contained and set forth in a schedule hereto annexed and made part hereof, marked "Schedule B."

He further reports that all of the property and assets belonging to said estate, except the bills receivable, described in "Schedule A," consisted of land, a statement of which the several liens upon the same are contained and set forth in a list hereto annexed
457 and made part hereof, marked "Schedule C."

He reports, further, that after having made out statements of the debts and liabilities of said estate, together with all property and assets belonging to the same, as contained in Schedules "A," "B," and "C," he *he* proceeded, as directed in said decree, to advertise in the Daily Appeal, a newspaper printed in the city of Memphis, and in the Chicot Press, a newspaper printed in Lake Village, in Chicot county, Arks., in complete conformity to the order and directions contained in said decree, that he, as receiver of said estate, would proceed to sell all of the land belonging to said estate in said State of Arkansas to the highest bidder, at public auction, for cash in hand, as follows, to wit: At the front door of the court-house of Chicot county, in the town of Lake Village, on the 16th of March, A. D. 1868, and between the hours for judicial sales, all of the lands
458 lying and situate in that county; at the front door of the court-house of Desha county, at the town of Napoleon, on the 17th day of said last-mentioned month and year, and between the same hours, the land situated in that county; at the front door of the court-house, Phillips county, in the city of Helena, on the twenty-first day of said last-mentioned month and year, and between the same hours, the land situated in that county; at the front door of the court-house of Drew county, in the town of Monticello, on the 23d day of said last-mentioned month and year, and between the same hours, the land situated in that county; at the front door of the court-house [of] Monroe county, in the town of Clarendon, on the 26th day of said last-mentioned month and year, and between the same hours, the land situated in that county; and at the front door of the court-house of Crittenden county, in the town of
459 Marion, on the 31st day of the last-mentioned month and year, and between the same hours, the land situated in that county, printed copies of which said advertisements cut from said newspapers are hereto annexed.

That in further obedience to the said decree, and in pursuance of said advertisements, he made sales of all said lands except Sec. 36, T. 5 S., R. 2 E., in Marion county, which tract he found all not belonging to said estate.

That said land- were stricken off and sold to the purchasers, and for the price mentioned and set forth in Schedule "C," above mentioned, that is to say: William H. Todd purchased the plantation known as Yellow Bayou for $30,000.00; the plantation known as Bellevue for $35,000.00; and the unimproved land in Chicot county, Arkansas, at $2.00 per acre, except one tract which he purchased at five cents per acre. Said Todd became the purchaser
460 of all the lands in Phillips county for $3,284.05, of all lands situated in Monroe county for $8,524 49/100, and of all the lands situated in Desha county for $372 92/100, making whole of the purchase-money due from said Todd the sum of $83,105 47/100. That the land-, Drew county, were sold to William F. Slemmons and W. T. Wells for $100.00, and upon these lands there was a vendor's lien, and they had also been sold for the taxes. That the lands situated in Crittenden county were struck off [to] C. H. Carlton, trustee, for ———, at one cent per acre. These lands had been sold for the taxes, and the time limited for their redemption had elapsed.

That the entire sale above mentioned amounted to the sum of $83,306 81/100.

The undersigned returns herewith an account of monies
461 received and paid out by him on account [of] said estate, marked "Account D."

The undersigned further represents that Lucy D. Woolfolk and Joseph S. Woolfolk are entitled to receive out of the purchase-money of the Bellevue plantation the sum of ---------- $8,750 00
And out of the purchase-money of the unimproved lands in Chicot county ---------- $1,081 00

In all ---------- 9,831 00

As will appear from statement marked Schedule "C," filed herewith.

All of which is respectfully submitted.

JOHNSON CHAPMAN, *Receiver.*

In Chicot County Circuit Court. In Chancery.

CREDITORS OF JUNIUS W. CRAIG, dec'd, *v.* EMMA J. WRIGHT *et al.*

462 "SCHEDULE A."

One note drawn by Newton Craig and Geo. P. Peak, payable to order of Junius W. Craig, dated November 28, 1857, payable November 28, 1862, $46,200.00. See copy agreement connected therewith. One draft drawn by Nathan Ross on Cuddy, Brown & Co., Apr. 9th, 1857, due one year after date, payable to the order of Junius W. Craig, for land in Phillips county, Arks., $2,717 75/100. One note Nathan Ross, dated Apr. 9th, 1857, payable Apr. 9th, 1859, to said J. W. Craig for land in Phillips county, $2,717.75; levy scrip, 2,100.00.

The foregoing all in the hands of Messrs. Street and Craig, attorneys, and upon the first note suit has been brought in Phillips county circuit court. This note was given for lands in Phillips and Monroe counties, and an agreement at the time of its
463 execution entered into between the makers and said Craig, a copy of which is appended. It was supposed that the said Newton Craig and Geo. P. Peak had abandoned the purchase, and the lands were sold, as in the report mentioned, as the property of the estate, and purchased by W. H. Todd at the sales made on the 21st (twenty-first) of March in Phillips county, and in Monroe county on the 26th day of M'ch, 1868, at one dollar and fifty cents ($1.50) per acre. The drawers are said to [be] irresponsible.

The Ross draft and note are secured by mortgage upon lands in Phillips county, but these lands have been forfeited to the State for taxes; they are described as follows, to wit: N. ½ Sec. 8; S. E. ¼ of Sec. 17; E. f'l ½ of Sec. 1; N. E. ¼ of Sec. 12: lot No. 8 in S. E. ½ Sec. 12; E. ½ of N. W. ¼ Sec. 7, and N. E. ¼ of Sec. 7, in town. 5 S., R. 2 E., 1,553 acres.

464 One note drawn by J. C. Johnson, Sr., and J. C. Johnson, Jr., dated August 10th, 1857, due five years after date, for $4,000.00, given for land, and upon which a lien for the payment is reserved, a description of which is *approved* hereto.

One note drawn by same, dated Oct. 1, 1857, payable three months after date, for $666 33/100, subject to credit, endorsed Feb'y 26th, 1858, of $400.00, bal. $266 33/100. One note drawn by Geo. W. Johnson, payable June 1st, 1859, $216.00.

One do. drawn by same, payable June 1st, 1860, $216.00.

One do. drawn by same, payable Jan. 1st, 1860, $600.00, secured by mortgage on land in Phillips Co., hereinafter described.

One note by J. Stoddard Johnston, dated May 30th, 1855, payable four (4) years after date, $1,685 75/100, secured by mortgage upon land in Phillips county, hereinafter described.

One note drawn by Charles A. Moore, payable August 10,
465 1862, to J. C. Johnston, Sr. and Jr., and endorsed by them, $1,792.00, secured by mortgage upon lands in Phillips county, hereinafter described.

One note drawn by Jno. Preston, Jr., payable Jan. 1st, 1859, $360.00; also secured by mortgage upon land in said last-mentioned county.

The above-mentioned notes of J. C. Johnston, Sr., and J. C. Johnson, Jr., Geo. W. Johnston, J. Stoddard Johnson, Chas. A. Moore, and Jno. Preston, Jr., with the interest calculated thereon up to Aug. 1st, 1867, amounting together to — sum of $3,647.87, were on last-mentioned day transfer-ed by Emma J. Wright, executrix of J. W. Craig- will, to Hayes, Esq., attorney for Mrs. A. C. George, executrix of Hosea George, deceased, in part satisfaction of the claim of said H. George against Craig's estate, who receipted for the same conditionally that they were secured by mortgage and free
466 from taxes; a copy of said Hayes' receipt will be filed herewith. The land mortgage to secure the J. C. Johnston, Sr. and Jr.'s, notes, or upon which lien was received, are situated in

Phillips county, and are described as follows, viz: E. ½ Sec. 26, W. ½ Sec. 25, W. ½ of E. ½ of Sec. 25, W. ½ of Sec. 36, E. ½ of E. ½ Sec. 36, E. ½ of S. E. ¼ of Sec. 36, and section 35, town. 4 S., R. 2 E.; N. ½ of Sec. 2, S. E. ¼ of Sec. 2, W. ½ of Sec. 1, town. 5 S., R. 2 E., W. ½ of Sec. 6, in town. 5 S., R. 3 E., and S. W. ¼ of Sec. 31, and W. ½ of S. E. ¼ same Sec., town. 4 S., R. 3 E.

The Moore note, and other notes drawn by him, hereinafter described, are secured upon a portion of the last above-described tracts of land, to wit: S. ½ of Sec. 35, S. W. ½ of Sec. 36 in town. 4 S., R. 2 E., and N. ½ of Sec. 2, and W. ½ of Sec. 1 in town. 5 S., R. 2 E. All of the above-described land- have been sold for the taxes except the t-o tracts in Sect. 31, in town. 4 S., R. — E., which are forfeited to the State, and the time for redemption for those sold
467 has elapsed.

The land- mortgaged to secure the note of Geo. W. Johnson for $600.00, above described, are situated in said last-mentioned county, and are described as follows, to wit: S. W. ¼ Sec. 11, S. ½ of N. W. ¼ of Sec. 11, S. ½ of N. E. ¼, N. ¼ S. E. ¼ and S. E. ¼ of S. E. ¼ of Sec. 11 in town. 4 S., R. 3 E., and S. ½ of N. E. ¼ of Sec. 3 in same township and range, except that portion lying north of Old Town Lake.

The land- mortgaged to secure the note drawn by J. S. Johnston are situated in same county, and are described as follows, to wit: N. W. f'l ¼, W. f'l ½ of S. W. ¼, N. E. ¼ of S. W. ¼, and N. f'l ½ of N. E. ¼ of Sec. 7, N. W. ¼ of N. W. ¼ of Sec. 8 in town. 4 S., R. 3 E. and Sec. 12, town. 4 S., R. 2 E., all of which said land- of Geo. W. Johnston and J. S. Johnston have been sold for the taxes, and the time limited for the redemption thereof elapsed.

The land- mortgaged to secure the note drawn by Jno.
468 Preston, Jr., are situated in the same county, and are described as N. ½ of Sec. 11, and N. E. ¼ of Sec. 10 in township 3 S, R. 4 W.

One note drawn by C. A. Moore, payable Aug. 10th, 1860, $1,792.00.

One do. drawn by same, payable Aug. 10, 1861, subject to credit of $1,029.50 (W. C), $1,792.00.

Secured upon land as above mentioned, for which have receipt of Mess. Bodley and several attorneys of Louisville, Ky.

3 notes of $6,000.00, each drawn by Samuel R. Walker, dated December 26th, 1856, one payable June 16th, 1857, one June 16th, 1858, and the this and last on the 16th day of June, 1859, all payable to Junius W. Craig, or order, and 8 per cent. interest after maturity until paid, say, $18,000.00.

These notes are secured upon the following described land by mortgage, and are in the hands of Chapman and Carlton,
469 attorneys, and—the Chicot circuit court said—*and* mortgaged, to wit: Sec. 31, S. E. ¼ Sec. 30, E. ½ of S. W. ¼, S. E. ¼ of N. W. ¼ of Sec. 30, in township 14 S., R. 1 W; S. ½ of Sec. 36, N. E. ¼ N. W. ¼ of N. W. ¼, Sec. 36, and S. W. ¼ Sec. 35, in township 14 S., R. 2 W.; N. ½ of Sec. 1, N. E. ¼ of S. E. ¼ Sec. 1, N. E. ¼ of Sec. 2; N. ½ of S. ½ of Sec. 2, N. ½ of S. ½ of Sec. 3, N. W. ¼ of Sec. 3, in township 15 S., R. 2 W., 2,400 acres; these lands have been sold for

the taxes, and purchased by Richard H. Stewart, and the time for redemption has elapsed.

Copy Agreement with N. Craig and Geo. P. Peak.

This agreement, made this 28th day of Nov., A. D. 1857, between Junius W. Craig, of Chicot county, State of Arkansas, of the first part, and Newton Craig and Geo. P. Peak, both of Scott county, Ky., of the second part, witnesseth: The said party of the first [part] does hereby bind himself, his heirs or assigns, to make
470 a warranted title to an undivided two-thirds of the following tract of land, to wit: The N. ½ of Sec. 29, the N. ½ of Sec. 36, township 5 S., 2 E., of the fifth principal meridian, in Phillips county, State of Arkansas, section twenty-five, twenty-six, thirty-five, east half of the east half of Sect. twenty-seven, southeast quarter of the southeast quarter of section twenty-two, the south half of the south half of section twenty-three, and the south half of the south half of section twenty-four, in township five south, one east of the fifth principal meridian, in Monroe county, State of Arkansas, for the following considerations, to wit: First, that the said parties of the second part do well and truly pay unto the said parties of the first part forty-six thousand two hundred dollars, on or before the twenty-eighth of November, eighteen hundred and sixty-two,
471 for which amount the said parties of the second part have jointly executed their note, the receipt whereof is hereby acknowledged.

Second. That the party of the first part and the parties of the second part shall clear, without a tree (unless ornamental trees) and fence, by the twenty-eighth of November, eighteen hundred and sixty-two, four hundred acres.

Third. That the party of the first part and the parties of the second part do agree to construct suitable cabins or buildings suited to the wants of the lands for the purpose of shelter for any hands while employed in clearing and fencing, &c.

Fifth. That the party of the first part shall pay as his proportion one-third, and that the parties of the second part shall pay two-thirds as their proportion toward clearing the aforesaid four hundred acres of land and improvements.

472 Fifth. That the said parties of the second part do — themselves to attend to said improvements, clearing, &c., except for actual labor performed by them, free of charge to the parties of the second part; that the said parties of the second part bind themselves to pay unto the party of the first part two-thirds of two thousand dollars as their proportion for deadening sixteen hundred, and so soon as said party of the first part acknowledges the same to have been done, for which he has already been given his contract to have done unto Jno. C. O. Mirtle, at one dollar and a quarter per acre.

Seventh. That neither the party of the first nor the parties of the second part have the privilege of so giving each others names, or transacting business in the name of said parties.

Eighth. That neither the party of the first nor the parties

473 of the second part shall have the right to sell his or their interest without the consent in writing of the whole. It is further agreed and understood, that, on the twenty-eighth of November, eighteen hundred and sixty-two, in case that the said parties of the second part are desirous of selling instead of retaining their interest, the party of the first part obligates himself to refund the aforesaid note, and pay to the parties of the second part ten thousand dollars in case the said parties of second part have complied with the aforesaid considerations.

In testimony whereof, the party of the first and the parties of second part have this day signed their names and affixed their seals.

JUNIUS W. CRAIG. [SEAL.]
NEWTON CRAIG. [SEAL.]
GEORGE P. PEAK. [SEAL.]

Attest:
S. C. FAULKNER.
JNO. P. CRAIG.

474 Received, Lake Village, Arkansas, September 1st, 1866, for collection from J. M. Craig of the estate of Junius W. Craig deceased, the following notes and bonds, as follows, to wit:

One note signed by J. C. Johnston, Sr. and Jr., dated Louisville, Ky., Aug. 10th, 1857, and due five years after date, with interest at six per cent. from date, for four thousand dollars ($4,000.00).

One note signed by same said J. C. Johnston, Sr. and Jr., dated Louisville, Ky., Oct. 1st, 1857, due three months after date, for six hundred and sixty-six and $\frac{33}{100}$ dollars, with a credit endorsed on thereof July 26th, 1858, of four hundred dollars, balance two hundred sixty-six $\frac{33}{100}$ dollars.

One note signed by Geo. W. Johnston, dated December the 17th, 1856, and due first day of January, 1860, for $600.00.

One note signed by same Geo. W. Johnston, in favor of Leland P. Craig, due on the first day of June, 1859, with interest from maturity, at the rate of 8 per cent. per annum, for two hundred and
475 sixteen dollars ($216.00.)

One note, same as last, due on the 1st day of June, 1860, for two hundred and sixteen dollars ($216.00.)

One note signed by J. Stoddard Johnson, in favor of S. P. Craig, dated Scott county *county*, Ky., May 30th, 1855, and made payable four years after date, to bear 8 per cent. interest if not paid at maturity, for one thousand and eighty-five and $\frac{75}{100}$ dollars ($1,085.75.)

One note signed by C. A. Moore, dated New Orleans, July 23, 1858, in favor of James C. Johnston, Sr., and Jr., and by them endorsed, for seventeen hundred and ninety-two dollars, 6 per cent. per annum interest from the 20th of Feb., 1858, negotiable and payable at the bank of Ky., in Louisville, Ky., $1,792.00.

One note signed by Jno. Criston, Jr., in favor of Silas Craig and J. A. Craig, dated Helena, Arkansas, December the 12th, 1853, and made payable on or before the 1st day of January, 1859, with interest for $360.00 (three hundred and sixty dollars).

476 One note signed by Newton Craig and George P. Peak, in

favor Junius W. Craig, or order, dated Columbia, Ark., November 28th, 1857, and due on or before the 28th day of November, 1862, for the sum of forty-six thousand and two hundred dollars ($46,200.)

One note signed by Nathan Ross, in favor of James W. Craig, dated ——, and due April the 9th, 1859, for two thousand seven hundred and seventeen & $\frac{75}{100}$; no interest mentioned, ($2,717.75.)

One protested draft drawn by Nathan Ross on Cuddy, Brown & Co., New Orleans, La., in favor of Junius W. Craig, dated April the 9th, 1859, due one year after date, for two thousand seven hundred and seventeen dollars and $\frac{75}{100}$ ($2,717.75.)

One piece of levy scrip, dated Jan. 1st, 1860, No. 35, bearing interest from Jan. 30, 1860, until paid for, one thousand dollars ($1,000.00.)

One piece of levy scrip, same date, No. 33, for one thousand dollars ($1,000.00.)

477 One piece of levy scrip, No. 37, for one hundred dollars ($100.00.)

Total amount, $6,271.58.

(Signed) STREET AND CRAIG,
Attorneys.

Copy Hayes Ac't.

Received, Lake Village, Ark., Aug. 1st, 1867, of Miss Emma J. Wright, executrix of the will of Junius W. Craig, dec'd, the following promissory notes, to wit: One note against J. C. Johnson, Jr. and Sr., for $4,000.00, and balance of note against same, amounting to $272.43; one note against Geo. W. Johnson, for six hundred dollars ($600.00); one note against same for $216.00, and one note for $216.00; one note against J. Stoddard Johnson for $1,085.75; one note against C. A. Moore for $1,792.00; and one note against Jno. Preston, Jr., for $360.00; which notes belong to the estate of Junius W. Craig, dec'd, and amounting, principal and interest, at
478 this date, to the sum of thirteen thousand four hundred and seventy & $\frac{54}{100}$, and are assigned to me by said executrix in payment and satisfaction of so much of the claim of the estate of Hosea George, dec'd, against the estate of said J. W. Craig, dec'd, with the understanding that said notes are all secured by liens, upon lands in Phillips county, which are clear of any incumberance by sale for taxes, and should there be any abatement of interest upon said notes, the estate of Junius W. Craig will make up the abatement or deficiency, the interest upon the note of J. Stoddard Johnson is calculated at six per cent., amount to five hundred and thirty-two $\frac{2}{100}$ dollars (532.02), and this settlement.

(Signed) ALLONA C. GEORGE,
Executrix of the Will of Hosea George, Deceased,
By H. HAYES, *Her Attorney.*

479 "SCHEDULE B."

Containing a statement of the debts due from the estate of said Junius W. Craig, as the same have come to the knowledge of the receiver.

An allowance or judgment of the Chicot probate court in favor of William H. Todd, dated July 25th, 1859.

One note due Jan. 1st, 1860, for	$12,000 00
A balance of three notes previously due	35,181 60
Interest at 10 per cent. on $12,000 to Feb. 4th, 1860	101 03
Amount due them	47,282 93
Deduct amount paid them	12,000 00
Balance due them	35,282 93
Add interest on $35,181.60 from April 3rd, 1859, to Oct. 20, 1860	5,459 24
	40,742 17
Deduct payment made them	5,000 00
Amount due them	35,742 17
Add interest, ten per cent., to Dec. 14, 1867, 7 years 1 mo. 25 d's	25,565 43
	61,307 60
Deduct judgment for rent obtained by Todd against Hicks & Robinson	4,000 00
Balance due them	57,307 60
480 Add interest, ten per cent. on $35,742.17 to M'ch 16, 1868, 3 mo. 2 days	913 40
Total amount due Todd	58,221 00

The plantation known as Yellow Bayou, described in Schedule C, mortgaged to secure the above-described debt, and which is classed on the probate court record in class No. 4.

One judgment of said probate court, dated Apr. 30th, 1859, in favor of Messrs A. D. Kelly & Co., assigned by them to W. W. Frazier, and by him to said William H. Todd, and classed in the third (3) class of claims.

Claims, open accounts	$45,607 76
Interest at 6 per cent. from Jan. 12, 1859, to Jan. 1, 1866, 7 years less 12 days	19,066 05
Amount due them	64,671 81
Deduct credit endorsed thereon received	19,266 09
Balance due them	45,405 72
Add int. at 6 per cent. to M'ch 16th, 1868	5,917 86
Total amount of claim	51,323 58

One claim allowed in said court, and classed in fourth (4th) class, favor of R. A. Goodloe, July 25, 1859, for		$200 00
Add int. from May 17th, 1859, to June 1st, 1868		120 50
Amount due June 1st, 1868		$320 50

481 One claim allowed in said court, and classed in the fourth class, in favor of C. W. Saunders, July 17, 1860 160 00
Int. 6 per cent. to June 1st, 1868 75 60

Am't of C. D. Sanders' claim $235 60

One claim allowed, and filed in said probate court, in favor of Lucy D. and Joseph S. Woolfolk, filed Jan. 23, 1860, and classed in the fourth class		$20,073 98
Int. 10 per cent. to June 1st, 1868		18,405 65
One do., favor same, filed and claimed the last—2 notes of $8,333.33, do. respectively M'ch 17, 1860, & M'ch 17, 1861, say		16,666 66
Int. on first named note to June 2, 1868		6,840 24
Int. on 2nd " " "		6,006 91
		67,998 44
Deduct the — admitted to have been paid M'ch 6th, 1861, petition in Louisville chancery court, but not appearing on the record of said probate court	$2,000 00	
Int. 10 per cent. to June 1st, 1868	1,449 80	
Amount received from Louisville chancery court, but not appearing on the record of Chicot probate court, July 12th, 1866	1,501 00	
Int. 10 per cent. to June	248 57	
		5,233 37
		$62,765 07

482 Mr. Woolfolk declares that the payment [of] two thousand dollars ($2,000.00), above admitted, was never made, and he inadversily stated that it had in his petition. If this be so, the balance due him on the 1st of June will be $66,212.87, instead of amount above stated.

One claim allowed and filed in said probate court Oct. 31st, 185-, in favor of Hosea George and classed in the 4th class. Bal. of claim due Jan. 2, 1861	$9,654 45
Add int. to Aug. 1st, 1867	6,355 81
Amount then due	16,010 26

Deduct amount of note by Emma J. Wright, executrix, to H. Hay's att'y, for the executrix of H. George, dec'd, dated Aug. 1, 1867, and hereby receipt filed hereto		$13,647 87
Balance due them		2,362 39
Same debt, leaving out amount of assigned notes, say bal. on above		9,654 45
Int. 10 per cent. to June 1st, 1868		7,160 34
Amount due them, leaving out assigned notes		16,814 79
483 One claim allowed and filed [in] said probate court Apr. 23, 1866, with int. to Apr. 25, 1859, and classed in the 4th class, favor of S. W. Peak		5,897 97
Add int. to Feb'y 15, 1866		285 05
Am't due them		6,183 02
Deduct payment then made		300 00
Amount due them		5,883 02
Add int. to M'ch 26th, 1860		40 19
Amount due them		5,923 21
Deduct payment made them		3,000 00
Balance due them from above		2,923 21
Add int. to June 1st, 1868		1,435 29
Amount due them		4,358 50
One claim in favor of said L. W. Peak allowed and filed in said probate court, and classed in the 4th class, Jan. 30th, 1860. Classed Apr. 23rd for		$3,250 00
Add 10 per cent. int. to June 1st, 1868		2,108 89
Am't due them		5,358 89
One claim in favor of Geo. Hancock, allowed by the auditor Aug. 11th, 1860, filed in said court but not classed, found in account		3,497 24
Int. 6 per cent. to June 1st, 1868		1,641 73
Am't due them		5,138 97
484 One claim in favor of Horace Walworth, allowed and filed Oct. 22nd, 2860, with the int. to Jan. 21, 1869, (classed in 5th class)		31,540 63
Deduct sale of land under decree of foreclosed mortgage, Jan. 21, 1867		3,910 60
Bal. due them		27,630 03

Add int. to Jan, 1st, 1868	$3,008 60
Amount due them	30,638 63

This claim is classed in fifth class.

Claims allowed in said probate court against said estate of J. W. Craig as expenses of administration and in favor of J. M. Craig, as attorney of said estate, being balance due him on final settlement of his accounts as such attorney unto 1867, 5,389.05; claim in favor of Street & Craig, 63.00; claim in favor of Street & Craig, 368.88.

W. P. Halliday has filed a claim in said probate court, allowed by Emma J. Wright as executrix, January 27th, 1868, filed Feb'y 6th, 1858, for 15,263.30; this claim for expenses for administration. Amount allowed by probate court May 8th 1868, for 8,983.00.

485 Emma J. Wright, as executrix of said J. W. Craig, has filed in said court her account current as such executrix, in which she claims a balance of $14,737.00. Amount allowed by probate court May 8, 1868, $10,917.12; both allowed as expenses of administration; both judgments appealed from.

One claim in favor of Robinson and Cracraft, services as attorneys, as expenses of administration allowed by probate court May 8th, 1868, $1,000.00.

"SCHEDULE C."

Containing a list and description of the land belonging to the estate of Junius W. Craig, dec'd, situated in the State of Ark., as the same have to the knowledge of Johnson Chapman, receiver of said estate, and was sold by him as hereinafter mentioned, in Chicot county sale, M'ch 16, 1868.

486

Parts of sections.	No. of section.	Town.	Range.	No. of acres.	Price for which sold.	Purchasers names.
S ½ of s ½	4	15 s.	1 w.	160		
S diag'al ½ of n ½ of s ½	4	15 s.	1 w.	80		
Fr'l	5	15 s.	1 w.	648.71		
E fr'l ½ & sw ¼, & s ½ of nw ¼	6	15 s.	1 w.	565.60		
Fr'l	7	15 s.	1 w.	640.71		
W ½ & w ½ of se ¼	8	15 s.	1 w.	400.00		
Ne ¼	18	15 s.	1 w.	160.00		
Bellevue plantation.				2,655.02	35,000 02	William H. Todd.

Lucy D. Woolfolk, wife of Jas. S. Woolfolk, hold a lien by deed, dated Dec. 5th, 1856, upon one-fourth of the above described tracts of land to secure certain notes of J. W. Craig, dec'd, allowed and

filed in the Chicot probate court, and described in "Schedule B," hereto annexed, the S. W. f'l ¼, W. ½ of S. E. ¼ & S. ½ of N. E. ¼ sec. 6, f'l sec. 7, and N. E. ¼, sec. 18, containing together 1,120 acres, mortgaged by Silas Craig in his lifetime to the R. E. Bank for a hundred & $\frac{82}{100}$ of stock.

Lands in Chicot County—Continued.

Parts of section.	No. of sec.	Town.	Range.	No. of acres.	Price.	Purchaser.
487						
Fr'l (w of Bayou)	12	15 s.	2 w.	578.84		
N fr'l ¼	11	15 s.	2 w.	171.63		
And ½ of s ½	11	15 s.	2 w.	160		
Fr'l	14	"	"	640		
Se f'l of ne ½	10	"	"	40		
	23	"	"	640		
Sw ¼	13	"	"	160		
E ½ nw ¼	24	"	"	80		
E ½ of ne ¼	22	"	"	80		
E ½ of se ¼	15	"	"	80		
"Yellow Bayou plantation,"				2,590.47	30,000 00	W. H. Todd.

The above mentioned tracts of land composing plantation known as "Yellow Bayou plantation" are mortgaged to William H. Todd to secure the debt mentioned and described in "Schedule B" as due to him from said estate. The first three or 2 mentioned tracts were mortgaged by Silas Craig to the Real Estate Bank for stock in the said bank.

Lands in Chicot County—Continued.

And ½ of s ½	11	15 s.	2 w.	160	320 00	Wm. H. Todd.
N ½ of se ¼	13	"	"	480	960 00	"
S ½	22	"	"	320	640	"
Se ¼	21	"	"	160	320	"
Sw ¼	15	"	"	160	320	"
W ½ se ¼	15	"	"	80	160	"
"	27	"	"	640	1,280	"
N ½ & sw ¼	26	"	"	480	960	"
488 Ne ¼	17	"	"	160	320	"
Sw ¼	9	"	"	160	320	"
Se ¼	10	"	"	160	320	"
E ½ of nw ¼	31	12 s.	3 w.	80	4	"
				3,040	5,924	

Lucy D. Woolfolk, wife of Jos. S. Woolfolk, has a lien by deed dated Dec. 5th, 1856, upon the above-described tracts of land, except S. E. ¼ Sec. 22, E. ½ of S. W. ¼ Sec. 22, N. W. ¼ Sec. 27, W. ½ of S. W. ¼ Sec.

27, and N. W. ¼ & S. E. ¼ Sec. 13; in all, 800 acres upon no lien; lien, $1,081.00.

In Desha County, March 17, 1868.

Ne ¼	13	7 s. 1 w.	219.22	54	80	Wm. H. Todd.
Se f'l se ¼	12	" "				
S ½ of n ½ & s ½	7	7 s. 1 e.	472.51	118	13	Wm. H. Todd.
N ½ & n ½ of s ½	8	7 s. 1 e.	480	120		Same.
W ½	9	" "	320	80		"
			1,491	372	93	

In Drew County, Sold M'ch 23, 1868.

N ½	36				
N ½ of s ½	36	14 s. 5 w.	560	100	Wm. F. Slemmons and W. F. Wills.
E ½ of ne ¼	35				

489 Upon these tracts was a vendor's lien for the purchase, executed by Skinner, who sold to J. M. Craig.

Land in Phillips County, Sale M'ch 21, 1868.

Nw ¼ of nw ¼	8	4 s.	3 e.	40	10	Wm. H. Todd.
Sw ¼	15	"	"	160	40	"
W ½ se ¼	"	"	"	80	20	"
W ½ of nw ¼	23	"	"	80	20	"
	22	"	"	640	160	"
E ½ of ne ¼	21	"	"	80	20	"
Sw ¼	1	"	2 e.	160	40	"
Se ¼	2	"	"	160	40	"
	12	"	"	640	160	"
S ½	12	"	"	320	80	"
N f'l ½	19	"	"	407.09	101 77	"
N f'l ½ of sw ¼	19	"	"	125.83	31 46	"
N f'l ½ of f'l	5	5 s.	"	323.29	80 82	"
E ½ of nw	15	"	"	80	20	"
W ½ of nw ¼	14	"	"	80	20	"
W ½ of ne ¼	14	"	"	80	20	"
W f'l of ne ¼	13	"	"	80	20	"
W f'l of se ¼	12	"	"	80	20	"
Se ¼	5	"	3 e.	160	40	"
W ½	19	"	2 e.	320	480	"
Se ¼	19	"	"	160	240	"
Sw ¼	20	"	"	160	240	"
E ½ of nw ¼	20	"	"	80	120	"
Sw ¼ of ne ¼	20	"	"	40	60	"
490 Sw ¼	18	"	"	160	240	"
N ½	29	"	"	320	480	"
N ½	30	"	"	320	480	"
				5,336.21	3,284 05	

All these lands have sold or forfeited for taxes; gro. am't, $186.35.

Land in Monroe County, Sale 16th March, 1868.

	25	5 s.	1 e.	640	960	Wm. H. Todd.
	26	"	"	640	960	"
	35	"	"	640	960	"
E ½ of e ½	27	"	"	160	240	"
Se ¼ of se ¼	22	"	"	40	60	"
S ½ of s ½	23	"	"	160	240	"
S ½ of s ½	24	"	"	160	240	"
S ½	12	"	"	320	480	"
S ½	11	"	"	320	480	"
E ½ of se ¼	10	"	"	80	120	"
E ½ of e ½	15	"	"	160	240	"
	14	"	"	640	960	"
	13	"	"	640	960	"
N ½	24	"	"	320	480	"
N ½ of s ½	24	"	"	160	240	"
N ½	23	"	"	320	480	"
N ½ of s ½	"	"	"	160	240	"
E ½ of ne ¼	22	"	"	80	120	"
Ne ¼ of se ¼	22	"	"	40	60	"
				5,680	8,520	

Forfeited to State for taxes of 1866; gro. taxes, $184.10

N ½ of nw ¼	1	3 s.	2 w.	89.94	24 49

491 *Lands in Crittenden County, Sales March 31st, 1868.*

E ½ of ne ¼	25	5 n.	5 e.	80.00
E ½ of se ¼	"	"	"	80.00
Ne ¼	36	"	"	160
Nw ¼	36	"	"	160
N ½	33	"	6 e.	320
Se ¼	33	"	"	160
Lot No. 3, sw ¼	31	"	"	99.20
Nw ¼ of nw ¼	9	7 n.	7 e.	40
Ne ¼	5	4 n.	6 e.	382.71
N f'l ½	4	"	"	796.92
S ½ of f'l	4	"	"	320
E ½ of ne ¼	8	"	"	80
Ne ¼ of se ¼	"	"	"	40
Se ¼ of se ¼	"	"	"	40
N ½	9	"	"	320
Se ½	9	"	"	160
W ½	10	"	"	320
E ½	10	"	"	320
Se ¼	3	"	"	160
Lots 2, 7, & 9 of ne ¼	3	"	"	116.41

Lots 3, 4, 5, 6, & 10, 11, 12, 13, 14, 15, & 17 of N ½	3	4 n. 6 e.	480.44
S'p'l of p'l s of bayou	2	" "	177.10
S'p'l of p'l	1	" "	50.89
Forward			4,863.67

These lands were struck a- one cent per acre to C. H. Carlton, as trustee for —— ——.

They have be- sold for the taxes, and purchased by one R. C. Wallace, and the time for redemption had elapsed before sale.

492				
	Amount forward			4,863.67
N ½	11	4 n. 6 e.		320
N ½ of s ½	"	"	"	160
N ½	12	"	"	317.72
S ½ of s ½	12	"	"	160
N ½ of s ½	12	"	"	160
E ½	13	"	"	320
E ½ of e ½	24	"	"	160
Lot No 4 of nw ¼	6	"	"	38.63
Sw ¼ of se ¼	5	4 n. 7 e.		39.20
S'p'l	7	"	"	608.43
N ½	8	"	"	320
Sw ¼	"	"	"	160
N ½ of nw ¼	18	"	"	77.22
N ¼ of ne ¼	"	"	"	40
E ½ of ne ¼	"	"	"	80
S ½ of nw ¼	"	"	"	77.23
Sw ¼ of ne ¼	"	"	"	40
W p'l ½ of nw ¼	19	"	"	74.95
W ½ of sw ¼	"	"	"	76.12
Sw ¼	5	"	"	141.96
Nw ¼ of nw ¼	9	"	"	40
Ne of nw ¼	"	"	"	40
E ½ of sw ¼	4	"	"	78.95
				8,394.08

Sold for one cent per acre to C. H. Carlton, trustee; for all of these been sold for their taxes to one R. C. Wallace, and term of redemption had elapsed at date of sale.

493 *Land Sales in Crittenden County*—Continued.

Am't forward			8,394.08
Lots 7, 8, 9, & of ne ¼	4	4 n. 7 e.	158.64
Lots 13, 14, 19, & 20 of nw ¼	3	" "	160.38

Lot 13 of Nw ¼	4	4 n.	7 e.	56.63	
" 14, 19 of n ½	4	"	"	78.74	
N p'l ½	8	"	5 e.		
N p'l ½	9	"	"	301	
Undescribed or mostly of					
E ½ of sw ¼	27	7 n.	8 e.	80	
W ½ of ne ¼	25	"	"	85.24	
Ne ¼	20	"	"	160.00	
Ne ¼ of nw ¼	22	"	"	40	
Nw ½ sw ¼	21	3 n.	5 e.	480	
W ½ of se ¼	21	"	"	80	
W ½ of nw	21	"	"	80	
				10,134.71	101 34 C. H. Carlton, trustee for W. H. Todd.

C. H. CARTTON,
Trustee for W. H. Todd.

Recapitulation of Sales.

Bellevue plantation, sold W. H. Todd		$35,000 00
Yellow bayou plantation, sold "		30,000 00
Other lands in Chicot county, "		5,924 00
Lands in Desha Co., "		372 93
" " Phillips Co., "		3,284 05
" " Monroe Co., "		8,542 48
Total purchase of W. H. Todd		83,105 47
494 Amount of sales brought over		$83,105 47
" " land sales in Drew Co.		100
Amount of land sales in Crittenden Co.		101 34
Total amount of sales		83,306 81

STATE OF ARKANSAS, *County of Chicot:*

Be it remembered that on this — day of ——, 186–, personally appeared before the undersigned, clerk of Chicot county circuit court, Geo. P. Gatewood, one of the publishers of the Chicot Press, a newspaper published in the town of Lake Village, who, being duly sworn, deposeth and saith: That (a decree) or an order of the circuit court of Chicot county, Arkansas, in the case of ——— a true copy of which is hereto affixed, has been published in said paper for four successive weeks, the first insertion of which was on the 8th day of Feb., A. D. 1868, and last, on the 29th day of Feb'y, A. D. 1868.

GEO. C. GATEWOOD.

495 Subscribed and sworn to, this 16th day of March, 1868.

JAS. McMURRAY, *Clerk*,
By C. W. FRY, *D. C.*

Printer's fees	$100 00.
Clerk's " 25 per cent.	100 25.

Public Sale of Real Estate.

In pursuance of a decree of the circuit court of Chicot county, in the State of Arkansas, in chancery sitting, rendered at the December term, A. D. 1867, thereof, in a certain cause therein pending wherein The Creditors of Junius W. Craig, dec'd, were complainants, and Emma J. Wright and others were defendants, the undersigned, Johnson Chapman, as receiver of the estate of said Junius W., dec'd, duly appointed at such by said decree, will proceed to offer at sale at public auction, to the highest bidder, for cash in hand, at the times and places herewith mentioned, all of the real estate
496 belonging to the estate of Junius W., dec'd, lying and being in the State aforesaid, that is to say, at the front door of the court-house of said county of Chico-, in the town of Lake Village, on the 16th day of M'ch next, (1868), and between the hours for judicial sales, the following described tracts of land, lying in said county, to wit:

S. ½ of S. ½ of sec. 4, S. diagonal ½ of N. ½ of S. ½ of sec. 4, frac. sec. 5, E. fr'l ½ & S. W. ¼ & S. ½ of N. W. ¼ of sec. 6, sec. 7, W. ½ & W. ½ of S. E. ¼ of sec. 8, & N. E. ¼ of sec. 18, all in township 15 S., of range 1 W., of the 5th principal meridian, containing in the aggregate 2,655.02 acres, and composing the plantation known as Bellevue.

Also fr'l sec. 12, fr'l sec. 11, E. ½ of N. E. ¼ of fr'l sec. 10, sec. 13, sec. 14, E. ½ of N. W. ¼ of sec. 24, S. ½ & E. ½ of N. E. ¼ of sec. 22; S. E. ¼ of sec. 21, S. ½ of sec. 15, sec. 27, N. ½ & S. W. ¼ of sec. 26, N. E. ¼ of sec. 17, S. W. ¼ of sec. 9, sec. 23, & S. E. ¼ of sec. 10, all in township 15 S., of range 2 W., containing together 5,590.47 acres, commonly known as
497 the "Yellow Bayou tract," and excluding the "Yellow Bayou Plantation," which contains 2,590.47 acres (and which place will be sold separately), all lying and being in township 15 S., of R. 2 W., of said meridian; and E. ½ of N. W. ¼ of Sec. 31, in town. 12 S., R. 3 W., of mid., containing 80 acres. At the court-house door of Desha county, in the town of Napoleon, on the 17th of March, 1868, the following-described tracts of land, lying and being in that county, to wit: N. E. ¼ of Sec. 13, & S. E. part of S. E. frl. ¼ of Sec. 12, in town. 7 S., R. 1 W. (S. of bayou), containing 219.22 acres; S. ½ of N. ½ & E. ½ of Sec. 7, in town. 7 S., R. 1 E., containing 472.50 acres; and N. ½ & N. ½ of S. ½ of Sec. 8, W. ½ of Sec. 9, in town. 7 S., R. 1 E., containing 800 acres. At the front door of the court-house of Phillips Co., in the city of Helena, on the 21st day of March, A. D. 1868, and between the hours of judicial sales, the following-described tracts of land, situated in the said county
498 of Phillips, to wit: N. W. ¼ of N. W. ¼ of Sec. 8; S. W. ¼, Sec. 15; W. ½ of S. E. ¼ of Sec. 15; W. ½ of N. W. ¼ of Sec. 23, 22; E. ¼ of N. E. ¼, Sec. 21, all in township 4 S., R. 3 E.; S. W. ¼ of Sec. 1, S. E. ¼ of Sec. 2, Sec. 12, south ½ of Sec. 17, N. frl. ½ of Sec. 19, N. frl. ½ S. W. frl. ¼ of Sec. 19, all in township 4 S., R. 2 E.; N. frl. ½ of frl. Sec. 5, E. ½ of N. W. ¼ Sec. 15, W. ½ of N. W. ¼ Sec. 14, W. ½ of N. E. ¼ Sec. 14, west part of N. E. ¼ of Sec. 13, W. pt. S. E. ¼ of Sec. 12, in township 5 S., R. 2 E., and S. E. ¼ of Sec. 5, in

town. 5 S., R. 3 E., containing together 3,776.21 acres; also W. ½ of Sec. 19, S. E. ¼ of Sec. 19, S. W. ¼ of Sec. 20, E. ½ of N. W. ¼ Sec. 20, S. W. ¼ of N. E. ¼ of Sec. 20, and S. W. ¼ of Sec. 18, in town. 5 S., R. 22, containing together 920 acres; also N. ½ of Sec. 29 and N. ½ of Sec. 30, in town. 5 S., R 2 E., containing together 640 acres. And at the front door of the court-house of Drew Co., in the town of Monticello, on the 23d day of March, 1868, and between the hours aforesaid, the following-described tracts of land, lying and being in last-mentioned county, to wit: N. ½ of Sec. 36, N. ½ of S. ½
499 of Sec. 36, and E. ½ of N. E. ¼ of Sec. 35, in town. 14 S., R. 5 W., containing 560 acres of land.

At the front door of the court-house of Monroe county, in the town of Clarendon, on the 26th of March, 1868, and between the hours aforesaid, the following-described tracts of land, situated in said county of Monroe, to wit: S. ½ of Sec. 12, S. ½ Sec. 11, E. ½ of S. E. ¼ of Sec. 10, E. ½ of E. ½ of Sec. 15, Sec. 14, Sec. 13, N. ½ of Sec. 24, N. ½ of S. ½ of Sec. 24, N. ½ of Sec. 23, N. ½ of S. ½ of Sec. 23, E. ½ of N. E. ¼ of Sec. 22, N. E. ¼ of S. E. ¼ of Sec. 22, Sec. 36, all in township 5 S., R. 1 E., containing together 3,880 acres. Also N. ½ of N. W. ¼ of Sec. 1, township 3 S., R. 1 W., containing 89.94 acres. Also Sec. 25, 26, & 35; E. ½ of E. ½ of Sec. 27; S. E. ¼ of S. E. ¼ of Sec. 22; S. ½ of S. ½ of Sec. 23; S. ½ of S. ½, Sec. 24; all in town. 5 S., R. 1 E., containing together 2,440 acres.

At the front door of the court-house of Crittenden county, in the town of Marion, on the 31st March, 1868, and between the hours aforesaid, situated in the said county of Crittenden, to wit:
500 E. ½ of N. E. ¼ Sec. 25; E. ½ of S. E. ¼ sec. 25; N. E. ¼ of Sec. 36; N. W. ¼, 36; in town. 5, R. 5 E.; N. ½ of Sec. 32; S. E. ¼ Sec. 32; Lot No. 3, of S. W. ¼ of Sec. 31, in town. 5 N., R. 6 E.; N. W. ¼ of N. W. ¼ of Sec. 9, in town. 7 N., R. 7. E.; N. E. ¼ Sec. 5, N. frl. ½ Sec. 4; S. ½ of frl. Sec. 4; E. ½ of N. E. ¼ of Sec. 8; N. E. ¼ of S. E. ½ Sec. 8; S. E. ¼ of S. E. ¼ of Sec. 8; N. ½ of Sec 9; S. E. ¼ of Sec. 9; W. ½ of Sec. 10; E. ½ of Sec. 10; S. E. ½ of Sec. 3; lots No. 2, 7, 9, of N. E. ¼ of Sec. 3; lots No. 3, 4, 5, 6, 10, 10, 12, 13, 14, 15, & 17, of N. ½ of said Sec. 3; S. part of frl. Sec. 2 (south of bayou); S. part of frl. Sec. 1; N. ½ of Sec. 11; N. ½ of S. ½ of Sec. 11; N. ½ of Sec. 12; S. ½ of S. ½ of Sec. 12; N. ½ of S. ½ of Sec. 12; E. ½ of Sec. 13; E. ½ of E. ½ of Sec. 24, all in town 4 N., R. 6 E.; lot No. 4, of N. W. ¼ of Sec. 6, in said last-mentioned town. and range; S. W. ¼ of S. E. ¼ of Sec. 5; frl. Sec. 7; N. ½ of Sec. 8; S. W. ¼ of Sec. 8; N. ½ of N. W. ¼ of Sec. 18; N. W. ¼ of N. E. ¼ of Sec. 18; E. ½ of N. E. ¼ of Sec. 18; S. ½ of N. W. ¼ Sec. 18; S. W. ¼ of N. E. ¼ of Sec. 18; W. frl. ½ of N. W. ¼ Sec. 19; W. ½ of S. W. ¼ of Sec. 19; S. W. ¼ of Sec. 5; N. W. ¼ of N. W. ¼ of Sec. 9; N. E. ¼ of N. W. ¼ of Sec. 9; E. ½ of S. W. ¼ of Sec. 4; lots 7, 8, 9, & 10, of N. E. ¼ of Sec. 4; lots 13, 14, 19, 20, of N. W. ¼ of Sec. 3; lot 13, of N. W. ¼ of Sec. 4; lots 14, 19, of N. ½ of Sec. 4, all in town. 4 N., R. 7 E.; N.
501 frl. ½ Sec. 8, N. frl. ½ of Sec. 9, in town. 4 N., of R. 5 E.; containing altogether 9,149 acres, and $\frac{47}{100}$; also the undivided ½ of E. ½ of S. W. ¼ of Sec. 27; W. ½ of N. E. ¼ of Sec. 25; N. E. ¼ of Sec. 20; N. E. ¼ of N. W. ¼ of Sec. 22, in frl. town. 7 N., R. 8 E.; N. ½

& S. W. ¼ of Sec. 21, W. ½ of N. W. ¼ of Sec. 21, T. 3 N., 5 E. range containing in the whole 985 $^{24}/_{99}$ acres. Should any of said sales not be completed on the days fixed above, they will be continued from day to day thereafter until all the lands are sold. The foregoing land will be sold subject to all existing liens on the same.

Feb. 8th, 1868. 408.

JOHNSON CHAPMAN, *Receiver.*

Public Sale of Real Estate.

In pursuance of a decree of the circuit court of Chicot Co. State of Arkansas, in chancery sitting, rendered at the December term thereof, A. D. 1867, in a certain cause
502 therein pending, wherein the creditors of Junius W. Craig, dec'd, were complainants, and Emma J. Wright and others were defendants, the undersigned, Johnson Chapman, as receiver of the estate of said Junius W., dec'd, duly appointed as such by said decree, will proceed to offer for sale at public auction to the highest bidder for cash in hand, at the times and places hereinafter mentioned, all of the real estate belonging to the estate of said Junius W., dec'd, lying and being in the State aforesaid, that is to say, at the front door of the court-house of said county of Chicot, in the town of Lake Village, on the 16th day of March, 1868.

And between the hours for judicial sales, the following-described tracts of land lying in said county, to wit: S. ½ of S. ½ of Sec. 4; S. diagonal ½ of N. ½ of S. ½ of Sec. 4; frl. Sec. 5; E. frl. ½ and S. W. ¼ and S. ½ of N. W. ¼ of Sec. 6; Sec. 7; W. ½ and W. ½ of S. E. ¼ of Sec. 8, and N. E. ¼ of Sec. 18, all in town. 15 S., of R. 1 W., of the 5th prin. meridian, containing in the aggregate 2,655.02 acres, and com-
503 prising the plantation known as "Bellevue;" also frl. Sec. 12; frl. Sec. 11; E. ½ of N. E. ¼ of frl. Sec. 10; Sec. 13, Sec. 14; E. ½ of N. W. ¼ of Sec. 24; S. ½ and E. ½ of N. E. ¼ of Sec. 22; S. E. ¼ of Sec. 21; S. ½ of Sec. 15; Sec. 27; N. ½ and S. W. ¼ of Sec. 26; N. E. ¼ of Sec. 17; S. W. ¼ of Sec. 9; Sec. 23, and S. E. ¼ of Sec. 10, all in town. 15 S., of R. 2 W., containing together 5,590.47 acres, commonly known as the "Yellow Bayou tract," and including the "Yellow Bayou," and which contains 2,590.47 acres, and which place will be sold separately, all lying and being in town. 15 S., of R. 2 W., said meridian, and E. ½ of N. W. ¼ of Sec. 31, in town. 12 S., of R. 3 W., containing 80 acres of land.

At the court-house of Desha county, in the town of Napoleon, on the 17th March, 1868, the following-described tracts of land, lying and being in that county, to wit: N. E. ¼ of Sec. 13; S. E. part of S.E. frl. ¼ of Sec. 12, in town. 7 S., of R. 1 W. (south of bayou), containing 219.22 acres; S. ½ of N. ½ and S. ½ of Sec. 7, in town. 7 S., R. 1 E., containing 472.51 acres; and N. ½ and N. ½ of S. ½ of Sec. 8; W.
504 ½ of Sec. 9, in town. 7 S., R. 1 E., containing 800 acres.

At the front door of the court-house of Phillips Co., in the city of Helena, on the 21st of M'ch, 1868, and between the hours for official sales, the following-described tracts of land, situated in said county of Phillips, to wit: N. W. ½ of N. W. ¼ of Sec. 8; S. W. ¼ of

Sec. 15; W. ½ of S. E. ¼ of Sec. 15; W. ½ of N. W. ¼ of Sec. 23; Sec. 22; E. ½ of N. E. ¼ of Sec. 21, all in town. 4 S., R. 3 E.; S. W. ¼ of Sec. 1; S. E. ¼ of Sec. 2; Sec. 12; S. ½ of Sec. 17; N. frl. ½ of Sec. 19; N. frl. ½ of S. W. frl. ¼ of Sec. 19, all in town. 4 S., R. 2 E.; N. frl. ½ of frl. Sec. 5; E. ½ of N. W. ¼ of Sec. 15; W. ½ of N. W. ¼ of Sec. 14; W. ½ of N. E. ¼ of Sec. 14; W. part of N. E. ¼ of Sec. 13; W. p't S. E. ¼ of Sec. 12, in town. — south, of range 2 E.; and S. E. ¼ of Sec. 5, in town 5 S., R. 3 E., containing together 3,776.21 acres; also W. ½ of Sec. 19; S. E. ¼ of Sec. 19; S. W. ¼ of Sec. 20; E. ½ of N. W. ¼ of Sec. 20; S. W. ¼ of N. E. ¼ Sec. 20; and S. W. ¼ of Sec. 18, in town. 5 S., R. 2 E., containing together 920 acres; also N. ½ of Sec. 29, and N. ½ of Sec. 30, in town. 5 S., R. 2 E., containing together 640 acres.

505 At the front door of the court-house of Monroe county, and town of Clarendon, on the 26th March, 1868, and between the hours aforesaid, the following-described tracts of land, situated — the said county of Monroe, to wit: S. ½ of sec. 12, S. ½ of sec. 11, E. ½ of S. E. ¼ sec. 10, E. ½ of E ½ of sec. 15, 14, 13; N. ½ of sec. 24; N. ½ of S. ½ of sec. 24; N. ½ of sec. 23; N. ½ of S. ½ of sec. 23; E. ½ of N. E. ¼ sec. 22; N. E. ¼ of S. E. ¼ of sec. 22, 36, all in town. 3 S., R. 1 E., containing together 3,880 acres; also N. ½ of N. W. ½ of sec. 1, in town, 5 S., R. 1 W. containing 89.94 acres; also sec. 25, 26, and 35, E. ½ of E. ½ of sec. 27, S. E. ¼ of S. E. ¼ of sec. 22, S. ½ of S. ½ of sec. 23, and S. ½ of S. ½ of sec. 24, all in town. 5 S., R. 1 E., containing together 2,440 acres.

506 At the front door of the court-house of Crittenden county, in the town of Marion, on 31st March, 1868, and between the hours aforesaid, the following-described tracts of land, situated in said county of Crittenden, to wit: E. ½ of N. E. ¼ of sec. 25, E. ½ of S. E. ¼ of sec. 25, N. E. ¼ of sec. 36, N. W. ¼ of sec. 36, in town. 5 N., R. 5 E.; N. ½ of sec. 32, S. E. ¼ of sec. 32, lot No. 3 of S. W. ¼ of sec. 31, in town. 5 N., R. 6 E.; N. W. ¼ of N. W. ¼ of sec. 9, in town. 7 N., R. 7 E.; N. E. ¼ of sec. 5, N. fr'l of sec. 4, S. ½ of fr'l sec. 4, E. ½ of N. E. ¼ of sec. 8, N. E. ¼ of S. E. ¼ of sec. 8, S. E. ¼ of S. E. ¼ of sec. 8, N. ½ of sec. 9, S. E. ¼ of sec. 9, W. ½ of sec. 10, E. ½ of sec. 10, S. E. ¼ of sec. 3.; lots 2, 7, & 9 of N. E. ¼ of sec. 3, lots No. 3, 4, 5, 6, 10, 11, 12, 13, 14, 15, & 17 of N. ½ of said section 3, S. part of fr'l sec. 2 (south of bayou), S. part of fr'l sec. 1, N. ½ of sec. 11, N. ½ of S. ½ of sec. 11, N. ½ of sec. 12, S. ½ of S. ½ of sec. 12, N. ½ of S. ½ of sec. 12, E. ½ of sec. 13, E. ½ of E. ½ of sec. 24, all in town. 4 N., R. 5 E.; lot No. 4 of N. W. ¼ of sec. 6 in said last-mentioned town. and range; S. W. ¼ of S. E. ¼ of S. 5, fr'l sec. 7; N. ½ of sec. 8, S. W. ¼ of sec. 8, N. ½ of N. W. ¼ of sec. 18; N. W. ¼ of N. E. ¼ of sec. 18, E. ½ of N. E. ¼ of sec. 18, S. ½ of N. W. ¼ of sec. 18, S. W. ¼ of N. E. ¼ of sec. 18, W. fr'l ½ of N. W. ¼ and W. ½ of S. W. ¼ of sec. 19, S. W. ¼ of sec. 5, N. W. ¼ of N. W. ¼ of sec. 9; N. E. ¼ of N. W. ¼ of sec. 9, E. ½ of S. W. ½ of sec. 4; lots 7, 8, 9, 10 of N. E. ¼ of sec. 4; lots 13, 14, 19, 20 of N. W. ¼ of sec. 3; lots 13 of N. W. ¼ of sec. 4, lots 14, 19 of N. ½ of sec. 4, all in town. 4 N., of R. 7 E.; N. fr'l ½ of sec. 8, and N. fr'l ½ of sec. 9, in town. 4 N. R. 5 E., containing altogether 9,149 $\frac{47}{100}$ acres; also the undivided ½ of E. ½ of S. W. ¼ of sec. 27, W. ¼ of N. E. ¼ of sec. 25, N. E.

¼ of sec. 20, N. E. ¼ of N. W. ¼ of sec. 22, in fr'l town. 7 N., of R. 8 E.; N. ½ and S. W. ¼ of sec. 21, W. ½ of S. E. ¼ of sec. 21, and W. ½ of N. W. ¼ of sec. 21, in town. 3 N., R. 5 E., containing in the whole 985 $\frac{24}{100}$ acres.

And at the front door of the court-house of Drew county, in the town of Monticel-o, on the 23rd March, 1868, and between the hours aforesaid, the following-described tracts of land lying in said last-mentioned county, to wit: N. ½ of sec. 36, N. ½ of S. ½ of sec. 36, and E. ½ of N. E. ¼ of sec. 35, in town. 14 S., of R. 5 W., containing 560 acres of land. Should any of said sales, on the day fixed, as above, then they will be continued from day to day thereafter until all the lands are sold. The foregoing lands will be sold subject to all existing lawful liens upon the same.

JOHNSON CHAPMAN, *Receiver.*

508 "ACCOUNT D."

The estate of Junius W. Craig, dec'd, in account with J. Chapman, receiver.

DR.

M'ch, 1868, to paid Chicot Press for printing advertisement of sale of land	$100 00
Paid Memphis Appeal for same	176 00
" C. W. Fry, auctioneer, for redemption of tract of land delinquent	11 50
Taxes on land in Drew Co.	31 00
Fees in case by E. J. Wright in Monroe county	2 50
	320 00

CR.

By cash received from W. H. Todd	351 00
M'ch 23 by cash received for sales of Drew county lands	100 00
All am't to	451 00

Endorsed as follows: Filed in open court Oct 28, 1868. J. McMurray, clerk.

509 *Report of Receiver.*

STATE OF ARKANSAS:

In the Chicot Circuit Court, at the October Term, 1868.

THE CREDITORS OF THE ESTATE OF JUNIUS W. CRAIG, Deceased,

v.

EMMA J. WRIGHT, as Executrix of the last Will and Testament of said deceased and as Legatee under said will, and others.

To the Hon. the judge of the Chicot circuit court, in chancery sitting:

The undersigned, Charles W. Fry, as receiver of the estate of Junius W. Craig, dec'd, duly appointed as such by your honorable

court at the present term thereof, respectfully reports that Johnson Chapman, the former receiver in this cause, in obedience —
510 the order and direction of the decree rendered in this cause at the December term, 1867, of this court, took charge of the assets of said estate, which consists of bills receivable, sold all the lands belonging to said estate in the State of Arkansas, and made a full report of his action as such receiver under said decree, which report is herewith presented and asked to be received and adopted, and the undersigned asks for such further directions and instructions herein as to honor may seem proper.

Respectfully submitted,

C. W. FRY, *Receiver.*

Endorsed thereon: Filed October 28th, 1868. Jas. McMurray, clerk.

Receiver's Deeds.

Whereas heretofore, to wit, at the December term, A. D. 1867, of the circuit court of the county of Chicot, in the State of Ar-
511 kansas, in a certain suit pending in said court on the chancery side thereof, wherein the creditors of the estate of Junius W. Craig, deceased, were complainants and Emma J. Wright, as executrix of the last will and testament of said Junius W. Craig and as legatee under said will, and others were defendants, the undersigned, Johnson Chapman, was appointed in and by the order and decree of said court receiver of the estate of said deceased, and was in and by said decree ordered and directed to proceed to sell the lands belonging to said estate situate in said State, to the highest bidder at public auction, for cash in hand, in the county or counties where such lands are situate, after giving at least four weeks' notice of the time, place, and terms of sale by publication in the "Daily Appeal." a newspaper published at Memphis, in the State of
512 Tennessee, by twenty-four insertions, and by four weekly insertions in the "Chicot Press," a newspaper published at Lake Village, in said county of Chicot;

And whereas I, the said Johnson Chapman, as such receiver, did, in obedience to the mandate of said decree, and after having the notice required therein, offer for sale at public auction for cash in hand, at the front door of the court-house of said county of Chicot, in the town of Lake Village, on the 16th day of March, A. D. 1868, and between the hours for judicial sales, the following-described tracts *tracts* or parcels of land situate in said county of Chicot, being part of the lands belonging to said estate, to wit:

Fr'l section (west of bayou) twelve (12), north fr'l half of section eleven (11), undivided half of south half of section eleven (11), fr'l section (14) fourteen, southeast part of northeast quarter of
513 section ten (10), section twenty-three (23), southwest quarter of section thirteen (13), east half of northwest quarter of section twenty-four (24), east half of northeast quarter of section twenty-two (22), and east half of southeast quarter of section fifteen (15), all in township fifteen (15) south, of range two (2) west, of the fifth principal meridian, containing together about 2,500 acres of

land, and composing the plantation commonly known as "Yellow Bayou plantation," at which sale William H. Todd bid and offered the sum of thirty thousand (30,000) dollars for the said several tracts of land or plantation, and he being the highest, last, and best bidder for the same, at that price, became and was the purchaser thereof.

And whereas also under the same order and decree, the same notice and at the same place and time, I, the said Chapman, as such receiver as aforesaid, did offer for sale in the same manner and on the same terms the following-described tracts or parcels of
514 lands situate in same county, being part of the lands belonging to said estate, to wit:

South half of south half of section 4, south diagonal half of north half of south half of said Sec. 4, part Sec 5, east fr'l half and southwest quarter and south half of northwest ¼ of Sec. 6, f'l Sec. 7, west half and west half and s. east ¼ of Sec. 8, and northeast ¼ of Sec. 18, all in town 15 south, of range one west, of said 5th prin. meridian, containing, together, about (2,655 $\frac{2}{100}$) twenty-six hundred and fifty-five and $\frac{2}{100}$ acres of land, and composing, together, the plantation commonly known as "Bellevue" plantation, at which sale said Wm. H. Todd bid and offered for the said several tracts of land composing said plantation the sum of ($35,000.00) thirty-five thousand dollars, and he, being the highest, last, and best bidder for the same at that price, became the purchaser thereof.

And whereas, also, on the said 16th day of March, A. D.
515 1868, and between the hours for judicial sales, I, the said Chapman, as such receiver under the same decree and notice, and *on* the same times and at the same place, did offer for sale the following-described tracts of land, or places of land, situated in said county of Chicot, to wit: Undivided half of south half of Sec. 11, containing one hundred and sixty (160) acres; north half and s. east ¼ of Sec. 13, containing four hundred and eighty (480) acres; south half of section 22, containing 320 acres; southeast ¼ of Sec. 21, containing 160 acres; southwest quarter of Sec. 15, containing 160 acres; west half of southeast ¼ of said section 15, containing 80 acres; Sec. 27, containing 640 acres; N. ½ and S.W. ¼ of Sec. 26, containing 480 acres: n. east ¼ of Sec. 17, containing 160 acres; southwest ¼ of Sec. 9, containing 160 acres; southeast ¼ of Sec. 10, containing 160 acres, all in township 15 south, of range 2 west, of said prin-
516 cipal meridian; and east half of northwest ¼ of Sec. 31, in township 12 south, of range 3 west, of said meridian, containing 80 acres. At which said sale Wm. H. Todd bid and offered for all of the said several tracts lying in township 15 south, of range 2 west, (2) dollars per acre; that is to say, ($5,960.00) five thousand nine hundred and sixty dollars for the whole, and for the tracts in township 12 south, of range 3 west, (.05) five cents per acre or four — ($400), and he being the highest and best bidder for all of said several tracts, at said prices, they were stricken off to him as the purchaser thereof. And whereas, also, afterward, to wit, on the 17th day of March, A. D. 1868, and between the same hours, I, the said Chapman, as such receiver, in obedience to said order and decree,

and in pursuance of the advertisements made in conformity thereto, did offer for sale to the highest bidder, at public auction, for cash in hand, at the front door of the court-house of Desha county, in
517 said State, in the town of Napoleon, the following described tracts or parcels of land lying and being situated in last-mentioned county, and belonging to said estate, to wit: N. E. ¼ Sec. 13, and southeast part of southeast quarter of Sec. 12, in town. 7, south, of range 1 west, of said meridian, containing 219 $\frac{22}{100}$ acres; south half of north half and south half of section 7, containing 472 $\frac{51}{100}$ four hundred and seventy-two & $\frac{51}{100}$ acres; north half and north half of south half of Sec. 8, containing four hundred and eighty (480) acres; and west half Sec. 9, containing three hundred twenty (320) acres, all in town. 7 south, of range 1 east, of said principal meridian, and containing in the whole one thousand four ninety-one & $\frac{73}{100}$ (1,491,73) acres. At which said sale Wm. H. Todd bid and offered for said several tracts of land in said last-named county, twenty-five cents per acre (25 cts.), being three hundred and
518 seventy-two $\frac{93}{100}$ (372.93) dollars. And he being the highest, last, and best bidder for the same, at said price, the said several tracts last named and described were stricken off to him as the purchaser thereof.

And whereas afterwards, to wit, on the 21st day of March, A. D. 1868, and between the same hours, I, the said Chapman, as such receiver, in obedience to the said order and decree, and in pursuance of the advertisements made in conformity thereto, did offer for sale, to the highest bidder at public auction, for cash in hand, at the front door of court-house of Phillips county, in the city of Helena, in said State, the following described tracts or parcels of land situate in last-named county, and belonging to said estate, to wit: The northwest ¼ of N. W. ¼ of Sec. 8, S. W. ¼ of Sec. 15, W. ½ of S. E. ¼ of said Sec. 15, W. ½ of N. W. ¼ of Sec. 23, Sec. 22, east half of northeast ¼ of Sec. 21, all in township 4 south, of range 3 east; S. W. ¼ of Sec. 1,
519 S. E. ¼ of Sec. 2, Sec. 12, south half of Sec. 17, north fr'l half of Sec. 19, north fr'l half of southwest ¼ of said Sec. 19, all in township 4 south, of range 2 east; north fr'l half of fr'l Sec. 5 (five), east half of northwest ¼ of sec. 15, west half of northwest ¼ of Sec. 14, W. ½ of N. E. ¼ of said Sec. 14, west part of N. E. ¼ of Sec. 13, west part of S. E. ¼ of Sec. 12, all in township 5 south, of range 2 east; S. E. ¼ of Sec. 5, in town. 5 south, of range 3 east; W. ½ of Sec. 19, S. E. ¼ of said Sec. 19, S. W. ¼ of Sec. 20, E. ½ of N. W. ¼ of Sec. 20, southwest ¼ of N. E. ¼ of Sec. 20, S. W. ¼ of Sec. 18, N. ½ of Sec. 29, and N. ½ of Sec. 30, all in town. 5 south, of range 2 east, containing in the whole five thousand three hundred and thirty-six and $\frac{31}{100}$ (5,336 $\frac{31}{100}$) acres. At which said sale, Wm. H. Todd bid and and offered for all of said land, except the last-mentioned tracts, 25 cts. per acre, and for last said eight mentioned tracts, one ($1.50) dollar and fifty cents per acre, making in the aggregate for all of said
520 lands in said county of Phillips $3,284.06, and he being the highest, last, and best bidder for the same at said sale, the said several tracts were struck off to him as the purchaser thereof.

And whereas also afterwards, to wit, on the 26th day of March,

A. D. 1868, and between the same hours, I, said Chapman, as such receiver, in obedience to said order and decree, and in pursuance of the advertisement made in conformity thereto, did offer for sale at the front door of the court-house of Monroe county, in the town of Clarendon, in said State, at public auction to the highest bidder for cash in hand, the following described tracts or parcels of land lying and being situated in said last-named county, and belonging to said estate, to wit: Section (20) twenty, twenty-[six] (26), and thirty-[five] (35), the east half of east half of sec. (27); southeast ¼ of northeast ¼ of section twenty-two (22); south half of south half of section twenty-[three] (23); south half of south half of sec-
521 tion (24); south half of section (12) twelve; north half of section eleven (11); east half of southeast ¼ of section ten (10); east half of east half of sec. 15, sec. 13, and fourteen (14); north half of section twenty-four (24); north half of south half of section twenty-four (24); north half of section twenty-[three] (23); north half of south half of sec. twenty-[three] (23); east half of N. east ¼ of sec. (22); northeast ¼ of southeast ¼ of said sec. 22, all in township 5 south, of range 1 east, and containing together five thousand six hundred and eight (5,608) acres, and the north half of the northwest ¼ of sec. (1) in town[ship] 3 south of range 1 west, containing eighty nine and $\frac{84}{100}$ ($89\frac{84}{100}$) acres, at which sale said Wm. H. Todd bid and offered for all of said land except last-mentioned tract, one and fifty cts. pr. acre, and for said last-mentioned tract 25 cts. per acre, in the aggregate eight thousand five hundred and forty-four and $\frac{48}{100}$ dollars ($8,544.48) for all of the said lands in said county of Monroe, and he being the highest, last, and best bidder for
522 the same at said prices, the said several tracts in said last-named county were struck off to him as the purchaser thereof:

Now, therefore, know all men by these presents that I, Johnson Chapman, as receiver of the estate of said Junius W. Craig, dec'd, in consideration as well of the premises aforesaid and of the sum of $83,123 $\frac{46}{100}$, being the aggregate amount of the purchase money of all of the hereinbefore described tracts, paid and settled at and before the —— and delivery of these presents, do hereby grant, bargain and sell, convey and confirm unto the said Wm. H. Todd and his heirs, all of the herein and before mentioned and described tracts or parcels of land situated in counties of Chicot, Desha, Phillips, and Monroe, in said State, with the privileges thereto belonging, to have and to hold the above granted premises, with the appurtenances belonging to said William H. Todd and his heirs forever.

523 In witness whereof I have hereunto set my hands as such receiver and affixed my seal, this —— day of ——, A. D. 1868.

JOHNSON CHAPMAN, *Receiver.*

Endorsed as follows: Filed in open court Oct. 28th, 1868. James McMurray, Cl'k, by C. W. Fry, D. C.

At the October —, 1868, of the Chicot circuit court in chancery, on

the 28th day of October, 1868, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF EST. OF J. W. CRAIG
vs.
EMMA J. WRIGHT, as Ex'tr, &c., *et al.* } 82.

This day comes Charles W. Fry, the receiver appointed by the court in this cause, and produces here in open court his deed,
524 executed by him as such receiver, to William H. Todd for lands situated in the county of Desha, in the State of Arkansas, which were sold under and by virtue of the decree in this cause by Johnson Chapman, late receiver, &c., and the said Charles W. Fry now acknowledges that he executed said deed as such receiver, for the uses, purposes, and consideration therein mentioned, and it is ordered that said acknowledgment be made of record in this cause.

At the Oct. term, 1868, of the Chicot circuit court, in chancery, on the 28th day of October, 1868, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF EST. J. W. CRAIG
vs.
EMMA J. WRIGHT, Ex'tr'x, *et al.* } 82.

This day comes Charles W. Fry, the receiver appointed by the court in this cause, and produces here in open court his deed,
525 executed by him as such receiver, to William H. Todd for lands situated in the county of Phillips, in the State of Arkansas, which were sold under and by virtue of the decree in this cause, by Johnson Chapman, late receiver, &c., and the said Charles W. Fry, as receiver aforesaid, now here acknowledges that he executed said deed for the uses, purposes, and consideration therein mentioned. And it is ordered that said acknowledgment be made of record in this cause.

And at the same term and on the same day of said court the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG
vs.
EMMA J. WRIGHT, Ex'tr'x, &c. } 82.

This day comes Charles W. Fry, the receiver appointed by the court in this case, and produces here in open court his deed, executed by him as such receiver, to William H. Todd, for lands
526 situated in the county of Chicot, in the State of Arkansas, which were sold under the decree in this cause by Johnson Chapman, late receiver, &c., and the said Charles W. Fry, as receiver as aforesaid, now here acknowledges that he executed the said deed for the uses, purposes, and consideration therein mentioned. And it is ordered that said acknowledgment be made of record in this cause.

And at the same term of said court and on the same day of the term, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG
v.
EMMA J. WRIGHT, Ex'tr'x, &c., *et al.* } 82.

This day comes Charles W. Fry, receiver in this cause, and produces here in open court his deed, executed by him as such receiver to Wm. H. Todd, for lands situated in the county of Monroe, State of Arkansas, which were sold under a decree of the court in
527 this cause by Johnson Chapman, late receiver, &c., and the said Charles W. Fry, now here acknowledges that he executed said deed as such receiver for the uses, purposes, and consideration therein mentioned.

And it is ordered that said acknowledgement be made of record in this cause.

And at the same term of said court, on the 28th day of October, 1868, a day of said term of said court, among others the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG
v.
EMMA J. WRIGHT, Ex'tr'x, &c. } 82.

This day comes Charles W. Fry, receiver in this cause, and produces here in open court his other deed, by him executed as such receiver to William H. Todd, for lands situated in the county of Chicot, State of Arkansas, which were sold under a decree in
528 this cause by Johnson Chapman, late receiver, &c., and the said Charles W. Fry, now here in open court acknowledges that he executed said deed as such receiver for the uses, purposes, and consideration therein mentioned. And it is *is* ordered that said acknowledgment be made of record in this cause.

At the April term, April 12, 1869, of the Chicot circuit court, in chancery, among others, the following proceedings were had:

WM. H. TODD
vs.
EMMA J. WRIGHT. } 156.

This day comes Albert Pike, and suggests to the court that the papers in this case, No. 156, and so placed upon the docket, were intended to be filed with the papers in the case of Creditors of J. W. Craig *vs.* Emma J. Wright, No. 82, and upon motion the court doth order the same to be corrected by striking from the docket the above-numbered case, numbered 156, and filing the same in case No. 82.

529 In the Circuit Court of the County of Chicot, in the State of Arkansas. In Chancery.

IN THE SUIT OF WM. H. TODD, ALEXANDER D. KELLY, GEORGE A. D. Kemper, Joseph S. Woolfolk and others, Creditors of the estate of Junius W. Craig, Deceased,

vs.

EMMA J. WRIGHT, Executrix of the last Will and Testament of Junius W. Craig and other heirs-at-law of the same, and others.

The petition of Wm. H. Todd, one of the creditors of Junius W. Craig, deceased, and one of the complainants in the above-entitled cause, complaining and praying that the assets of the said estate may be marshalled, respectfully represents that the said Joseph S. Woolfolk and Lucy D. Woolfolk, his wife, who are also complainants in the above-entitled suit, did, after the institution of the said
530 suit, and after the same had made progress in this court, instituted their other suit, by petition in the chancery court of the city of Louisville, in the State of Kentucky, against the heirs-at-law of the said Junius W. Craig, as personal representatives, your petitioner-, Wm. H. Todd and others, as defendants, to subject to the payment of the credits and claims of them, the said Joseph S. Woolfolk and Lucy D., his wife, against the estate of the said Junius W. Craig, allowed to them and in their favor in and by the probate court of the county of Chicot, and set forth in the said original bill in the above-entitled suit, the certain lands and tenements which were of the said Junius W. Craig, deceased, situate and being in the city of Louisville, and in the county of Jefferson, and in the said State of Kentucky, after the institution of which suit in the said chancery court of the city of Louisville, the said lands and tenements
531 in that State were, by the order and decree of that court, sold upon credit, the proceeds being directed to be paid into the court, and there await, for disposition and distribution, the final decree that might be rendered in the cause, of which proceeds that court has permitted the sum of fifteen hundred dollars or more to be paid over to the said Joseph S. Wbolfolk.

Your petitioner further represents that the said lands and tenements in the State of Kentucky sold for, in the aggregate, the sum of sixty thousand dollars or more; but the purchasers thereof are attempting, for divers reasons assigned by them in that court, to avoid their purchases of said lands and tenements, so that the purchase-money thereof, either wholly or in part, yet remains unpaid into court there; but there is no just ground for avoiding the said purchases, and the obligations given for the purchase-money will in the end be enforced.

532 Your petitioner further represents that in the said cause in the said chancery court, of Louisville, the said Joseph S. Woolfolk and wife — to claim and demand that the proceeds of the sale of the said lands in the State of Kentucky shall, as assets of the said estate be distributed, in accordance with the law of the State of Kentucky, in which State there is ancillary administration

only of the said estate of the said Junius W. Craig; and that the said State of Kentucky shall, by its said court of chancery, prefer in the matter of the said distribution, its own citizens (which the said Joseph S. Woolfolk and his wife are) to the citizens of other States, administering the same in accordance with the law of the said State of Kentucky; and especially they claim, insist, and demand there that the classification by the probate court of the said county of Chicot of the various claims against the said estate,
533 by which, among other things, the claims allowed in favor of Alexander D. Kelly and George A. D. Kemper, as the firm of A. D. Kelly & Co., were placed in the third class; and that of Horrace F. Walworth in the fifth class shall be wholly disregarded as of no force, validity, or effect whatever in the said State of Kentucky; and that all of the claims against the said estate shall be placed there, and in respect of the distribution thereof the said assets upon one common footing of equality. And your petitioner supposes that such will be held to be the law of the State of Kentucky, and that so it will be there adjudged, although the said classification by the probate court hath, by the law of Arkansas, the full force and effect of a judgment of a court of general jurisdiction.

Your petitioner further represents that he is the owner, by assignment for value, of the said claim, allowance, and judgment of the probate court in favor of the said firm of A. D. Kelly & Co.
534 against the said estate, the amount of which claim was, on the seventh day of September, A. D. 1858, forty-five thousand six hundred and seven dollars and seventy-six cents; the amount of which claim, as allowed, and the payments wherein, and the amounts still due thereof, and his ownership thereof already appear in the said suit of the creditors, and upon the records of this court.

Your petitioner further represents that the said claim of the said firm of A. D. Kelly & Co. was, as the account current exhibited for allowance shows, almost wholly for monies advanced to Junius W. Craig, and paid, laid out, and expended for him by the said A. D. Kelly & Co. during the year 1858; and he further represents that about the time when the said debt was contracted, the said Junius W. Craig deposited with the said firm a large number of bills, bonds, notes, and other evidences of debt, amounting in the whole
535 to seventy-five or eighty thousand dollars, to be held by the said firm as collateral security for the payment of advances made and to be made by the said firm to him, and of his indebtedness then contracted to them or afterwards to be contracted; a list and statement of which choses in action and evidences of debt, your petitioner will hereafter file and exhibit, and now prays that the same when exhibited, marked C 2, may be taken and considered as part of this petition.

Your petitioner further represents that most, if not all, of the said bonds, bills, and notes so placed in the hands of the said firm, were given to the said Junius W. Craig for the purchase-money of lands in the State of Arkansas, sold by him to the makers of the same, and were secured by the laws of the said State, by lien of the vendor upon the lands respectively so sold; that the said firm was in-

vested with power and right to collect the said notes, bills,
536 and bonds, and enforce the said leins and apply the monies so collected to the payment of the indebtedness to it of the said Junius W. Craig, the said evidences of debt being by the law of Louisiana hypothicated to them as collateral security for the said indebtedness, and beyond the reach of the administrators of the said estate.

Your petitioner further represents that in the year 1858 the said Junius W. Craig, by means of the large advances made to him by the said firm, engaged largely in the cultivation of cotton in the said county of Chicot, and was bound by promise and obligation to ship the same when and as it should be ready for market to the said firm for sale, that the said firm might, out of the proceeds, have repayment of the large amount aforesaid so by it advanced to him, and on which, by the laws of Louisiana, when it should have come to their hands in New Orleans, that State, where the said firm was domiciled and engaged in business as commission
537 merchants and faotors, it would have had a lien and preference for the amount of such advances. But the said Junius W. Craig, dying in September, 1858, the said cotton in quantity, about two thousand bales, and which sold for seventy or eighty thousand dollars, coming to the hands of the administrators of said estate as assets, the said firm was compelled to present their claim for allowance and payment *pro rata* to the said probate court, and to pay over the whole proceeds of the sales of the said cotton to the administrators to be distributed, and it was distributed amony other creditors. But the said firm of A. D. Kelly & Co. having thus lost the opportunity of having satisfaction of their claim out of said cotton and its proceeds, still retained the bills, bonds, and notes hypothicated to it, and were entitled by means of these and the liens on lands of the estate for payment of the same, to obtain satisfaction of their said indebtedness, which being the case, on
538 the thirteenth day of April, A. D. 1859, John R. Llewellyn and Joshua M. Craig, the administrators of the said estate, on that day filed their petition in the said probabate court, containing the statements following; that is to say:

That the said Junius W. Craig was in his lifetime indebted to the said firm of A. D. Kelly & Co., as above stated, in the sum of forty-five thousand six hundred and seven dollars and seventy-six cents, which claim has been duly probated, and presented to and allowed by the administrators; that the said bonds, bills, and notes had as aforesaid been placed in the hands of the said firm as collateral security, and were still held by them as aforesaid, except such of them as had been paid to the said firm and accounted for by it. That administration of the goods and chattels, rights, and credits of the said estate in the State of Louisiana had been granted by the
539 proper court in New Orleans to one Lewis E. Craig, who claimed it on account of the receipt of the same firm for the said bods, bills, and notes, and of his relationship to the deceased; that the said collaterals were given to the said Junius W. Craig by divers persons for lands sold them by him, lying in the State of Ar-

kansas, title to which lands would have to be made by the said administrators appointed by the said probate court of Chicot county, or their successors in office, and the purchasers would probably not pay the notes until they could obtain title. That the said administrators then had in their hands about the sum of fifty thousand dollars in cash, belonging to the said estate, more than sufficient to pay the amount due the said firm, and to release the said collaterals, thereby stopping the running interest on said claim, and make the said collaterals available to the said estate. That it was much for the interest of said estate that its lands should not be forced into mar-
540 ket for the purpose of paying the debts of the estate, then amounting to two hundred and fifty or three hundred thousand dollars, and it was, therefore, of great importance that the administrators should speedily obtain possession of the said collaterals and collect the monies represented by them. And they represented that the said firm had a lien on the said collaterals to secure payment of their claim, and submitted to the court whether the claim ought to be paid in the third or fourth class, wherefore they prayed that court to class the claim as might seem just, and to order the payment of it on condition that the said firm could deliver up to the administrators all of said bonds, bills, and notes remaining in their hands, free from liens or incumbrances; which petition being shown to, and filed, the said probate court classed the said claim in the third class, and ordered it to be paid upon the surrender of
541 the said bonds, notes, and bills. All which by a copy of the said petition, which is herewith exhibited, marked 6, 3, and prayed to be taken as part of this petition, and by an exemplification of the record of the said order of the probate court, which will hereafter be filed and exhibited, marked 6, 4, and which it is prayed, when so exhibited, may be taken as part of this petition, will fully appear; and also by the said account current of the said firm and the order of the judge of said probate court endorsed thereon, placing it in the third class, a copy of which account current and order is herewith exhibited, marked 6, 1, and prayed to be taken as part of this petition. Upon the faith of which order of allowance and classification, and believing that it made their claim safe, the said firm of A. D. Kelly & Co. not only surrendered all the said bonds, bills, and notes which had not been paid to them, but also
542 permitted the said administrators, instead of paying the claim of the said firm, to use the said sum of fifty thousand dollars and more, which was in their hands, part of the proceeds of the same cotton grown by the help of the advances made by the firm as aforesaid, to use it in paying other debts and carrying on the plantation.

Your petitioner further represents that the said Joseph S. Woolfolk and his said wife have enforced in this court the lien which she held upon an undivided interest in part of the lands of the said Junius W. Craig in the said county of Chicot, as by the record of this court and case appears, and that they are now claiming here all to which the laws of Arkansas they can be entitled, upon distribution among the creditors, of the proceeds of the lands

in the State sold under the decree of this court, and that in equity and justice the proceeds of sale of the said lands in Kentucky ought to be brought into this court and
543 counted with the fund here, and be distributed as part of it. And he further submits that the classification of the claims against the said estate, by the probate court here, being judgments they ought to have full force and effect everywhere as against the claimants, their original claims being thereby extinguished, and the judgments and allowances in their favor of right-ously are -forcable according to their terms and their effect here. And espeecially he insists that the said claim of A. D. Kelly & Co. being in reality for so much money agreed and stipulated to be paid them in consideration of the surrender of bonds, bills, and notes hypothecated to them for a much larger amount that the sum so agreed to be paid, and being in effect the same as if so much money had been agreed and by the court ordered to be paid to satisfy and extinguish a mortgage or other lien on land of the estate, and *and* the same had in that consideration been released and extinguished,
544 is entitled to be paid in preference to any other existing claims without reference to its allowance, which is only of importance as establishing the fact of the indebtedness secured by the said hypothecation and as fixing its amount. Nevertheless, the said Joseph S. Woolfolk and his wife insist on the said chancery court of Louisville, that the said claim not be paid in preference to their own out of the proceeds of the said lands in the State of Kentucky, but only proportionately with all others, that of the said Wolworth included.

Your petioner further represents that the monies paid by the administrators of the said estate to the said Joseph S. Woolfolk, or to him and his said wife, the amounts whereof appear by the record of this case, have been wholly applied by him to the extinguishment of other allowances than that of the indebtedness secured by lien on the said undivided interest in certain lands of the estate
545 known as the Bellevue plantation, whereas they should of right been applied proportionately to all their allowances.

Whereforefore and because it is uncertain what may be the opinion and decision in the premises of the said chancery court of the city of Louisisville, and as the said Joseph S. Woolfolk and Lucy D., his wife, by becoming complainants in the said creditor's bill, and by before then having had their said claims allowed and classified by their said probate court of the county of Chicot, have claimed and had the benefit of the laws of the State of Arkansas to enforce their claims against the said estate and succession and against the other creditors thereof, and have given this court personal jurisdiction of them and are before it, in all that concerns the marshalling and distribution of the assets of the said estate wheresoever the said assets may be, and ought not in equity to be permitted to gain any peculiar advantage by means of the laws of another in regard to the assets there, and as they are citizens
546 and residents of the State of Kentucky, and cannot be served with process from this court, or by attachment be made to

answer or to perform its decree; and as the assets of the said estate ought to be distributed as that all claims of the fourth class shall at the end, payments therein heretofore made being taken into consideration have been paid *pro rata*. Therefore your petitioner respectfully prays that it may be ordered that the said Joseph S. Woolfolk and Lucy D., his wife, do answer this petition by a day certain to be fixed by the court, and that service of such order on the solicitor of record of the said Woolfolk and wife be sufficient service on themselves, and that if they fail to answer, and until they do so, they be excluded from all share or interest in the assets of the said estate in the court here to be administered. And he further prays that they may especially answer and set forth how much and what sums of money they or either of them may at the time of answer-
547 ing have received of the said assets in Kentucky, and at what prices, and how much the lands of the estate in that State may have been sold, and how much a- what sums on account thereof may then have been paid into the said chancery court of the city of Louisville; and that upon the final marshalling of the assets of the said estate in the court here in this suit, the payments made in course of administration upon all claims allowed may be taken into account in determining the further share and portion of each to [be] paid out of the assets unadministered, so that on the whole and in the end all claims of the same class shall have been paid *pro rata*. And that the payments made to the said Woolfolk and wife by the administrators may be properly applied to and apportioned equally among all of their claims; and that it be decreed that the said claim of the said firm of A. D. Kelly & Co. be paid to your petitioner, or allowed to him in
548 satisfaction of his bond here given, in preference to any and all claims of the fourth and fifth classes; and that in such marshalling the assets in the State of Kentucky be taken into the account and dealt with as if they were here in court to be distributed, and be accounted for as such by any creditor or creditors receiving portions of the same, and that out of them, if it should be found necessary in aid of the assests here, any unpaid residue of the said allowance in favor of the said firm of A. D. Kelly & Co. may be paid to your petitioner in full, and any other creditors receiving the same, or portions of the same, be decreed to refund to your petitioner as assignee, in due proportion, the sum necessary to complete the payment of the said claim, and to him or any other creditor or creditors any amount of the said assets in Kentucky whereby they may have received in the whole more than the proper per centum decreed
549 to be paid upon their claims, and that if it be found necessary, the said Joseph S. Woolfolk and Lucy D., his wife, be, by proper process of injunction, prevented from receiving and appropriating to their own use so much of the said assets in the State of Kentucky as ought to be paid to your petitioner and any creditor or creditors other than themselves, and be compelled by the same or other proper process to pay the same into the court here for distribution, and that your petitioner may have such other and further

relief in the premises as may be consistent with equity; and in duty bound he will ever pray, &c.

WILLIAM H. TODD,
Creditor, &c.

PIKE, ADAMS & PIKE,
Solicitors.

550 *J. W. Craig, Esq., in Account Current with A. D. Kelly & Co.*

Interest Account at 8 per cent. p. an. to 7th Sept. '58.

1858.							
May 19.	To balance, per account rendered, due A. D. K. & Co., say—						
	Cash			$3,578 28			
	And outstanding:						
	Your note due—						
	10—13 Jan., 1859	$3,912 40					
	10—13 do.	5,000 00					
	1—4 Feb'y, 1859	6,000 00					
		14,912 40					
	Acceptance due—						
	4—7 Nov., 1858	$2,300 00					
	25—28 do.	1,000 00					
	27—30 do.	2,975 00					
	23—30 do.	3,000 00					
	27—30 do.	3,000 00					
	27—30 do.	2,748 14					
	1—4 December	1,303 00					
	4—7 do.	1,330 43					
	12—15 do.	809 52					
	16—19 do.	600 00					
	1—4 Jan'y, 1859	1,859 76					
	1—4 April, "	1,344 29					
		22,270 14	37,182 54	40,760 82			
	To commission 2½ p. c. for accepting above— say on $22,270 14			556 75			
	invoice of groceries rendered you			225 75	110	13	57
21.	cash paid draft favor of A. L. Shotwell & Son,			250 00			
25.	" " R. M. Moore			80 00			
June 2.	your note, our favor due 15—10 December, 1858		3,804 39				
	commission 2½ p. c. for endorsing same		95 11				
				3,899 50			
3.	invoice of ice rendered you			10 00			
	cash paid st'm'r "Ingomar," freight on sundries		24 61	184 11			
8.	cash paid st'm'r "Ingomar," freight on sundries		9 50				
551							
June 8.	cash paid dr'ft favor st'm'r Ingomar, freight		150 00	10 00	80	19	78
18.	invoice of ice rendered you			920 48			
21.	" bagging, &c.			200 00			
22.	our acceptance of your draft favor Jno. Hebron, due 13—16 Sept., 1858			1,627 80			
23.	cash paid your acceptance of H. Craig draft,			6 00			
28.	" st'm'r "Messenger," freight on ice to plantation, $3 & $3			10 00			

1858.					
June 30.	To invoice of ice rendered you		3 00		
July 13.	cash paid st'm'r "Messenger," freight on same		10 00		
17.	invoice of ice rendered		26 25		
23.	" ale & ice		10 00	74	28 16
28.	" ice, 10		4 00		
	cash paid st'm'r "Messenger," freight on ice to plantation		10 00		
Aug. 4.	cash paid st'm'r R. W. Adams, freight on ice to plantation		8 00		
" 4.	invoice of ice rendered you.				
" 9.	cash p'd st'm'r "Messenger" for box cigars, 5.				
	" " freight on ice, 3.				
11.	our acceptance of your draft favor D. M. Conlut & Co., due 3—2 day Feb'y, 1859, $100.13, & interest $2	102 13			
	do. do.	353 00			
			455 13		
	commission 2 ½ p. c. for accepting same		11 00		
	Am't carried over		49,284 89		61 71
	Continued.				
	To am't of debits brought forward		49,284 89		61 71
1858.					
Aug. 11.	invoice of ice rendered you		10		
18.	cash p'd stm'r "R. W. Powell," freight on same	2 50			
	invoice of ice rendered you	10 00			
			12 50		
24.	cash paid st'm'r "Messenger," freight on same		3 00		
27.	cash paid st'm'r R. W. Powell, freight on ice		2 50		
552					
Sept. 1.	To invoice of groceries, &c., rendered you		204 79	7	38
3.	cash paid stm'r "Ben. Franklin," freight on ice		3 00		
4.	invoice of ice rendered you		20 00		
7.	balance of interest ac. to date		55 36		
			49,590 04		62 09

1858.
Sept. 7. To balance brought down, due A. D. K. & Co., say cash $4,165 70

And outstanding:

Your note due—

15—8 Dec., '58	$3,804 39	
10—13 Jan., '59	3,912 40	
10—13 do.	5,000 00	
1—4 Feb'y, do.	6,000 00	
		$18,716 79

Acceptance due—

4—7 Nov., '58	2,300 00
25—28 do.	1,000 00
27—30 do.	2,995 00
27—30 do.	3,000 00
27—30 do.	3,000 00
27—30 do.	2,748 14
1—4 Dec. do.	1,303 00
4—9 do.	1,330 43
12—15 do.	809 52
16—19 do.	600 00

1—4 Jan., '59	1,859 76			
30—2 Feb., "	102 13			
30—2 " "	353 00			
1—4 April, "	1,344 29			
		22,725 27	45,607 76	
		41,442 06		
Commissioner's fee			2 00	

E. & O. E.
New Orleans, 7th September, 1858.

553 CREDITS.

1858.					
June 2.	By proceeds of your note, our favor, due 15—18 Dec., 1858	3,804 39			
	off 214 days, 10 per cent. disc't, from 19th May, '58	226 11			
	amount handed M. Kempner by you, in gold, in Ark.		60 00		
28.	Jno. Williams & Co., acceptance collected		350 00	74	6 73
Sept. 7.	balance of interest acc't to do. side				55 36
	balance due carried down		45,607 76		
			45,596 84		62 09

STATE OF LOUISIANA, *City of New Orleans:*

I, Alexander D. Kelly, of the commission firm of A. D. Kelly & Co., of the city of New Orleans and State of Louisiana aforesaid, do solemnly swear that nothing has been paid or delivered toward the satisfaction of the above demand, except what is credited therein, and that the sum of forty-five thousand six hundred and seven dollars seventy-six cents, above demanded, is justly due said firm: So help me God.

A. D. KELLY.

Sworn to and subscribed before me, at New Orleans, the 12th of January, 1859.

A. D. KELLY & CO.,
Per J. GURNEY.

554 In witness whereof, I, Daniel T. Ricards, a commissioner of the State of Arkansas in and for the State of Louisiana, have hereunto set my hand and seal, at New Orleans, the twelfth of January, 1859.

[L. S.] D. J. RICARDS.

Endorsed: "Presented to us and allowed, this 26th day of April. J. M. Craig, J. R. Llewellyn, adm'rs. Filed April 26th, 1859. Attest: B. F. Stephenson, cl'k." For reasons set forth in the petition of the administrators, this day filed and sworn to, this claim is classed in the third class of claims. A. H. Davies, as judge of probate.

At the April term, 1869, of the Chicot circuit court, in chancery, on the 14th day of April, 1869, a day of said term of said court, among others, the following proceedings were had, viz.:

555 WILLIAM H. TODD, JOSEPH S. WOOLFOLK and WIFE, and others, Creditors of the Estate of Junius W. Craig,
vs.
EMMA J. WRIGHT, Executrix, and others. } 82.

William H. Todd, one of the creditors of the estate of Junius W. Craig, who are complainants in this cause, having, in vacation, filed his petition in respect to the marshalling of the assets of the said estate, and preference of certain claim of A. D. Kelly & Co. over all others, it is now, upon his motion, and in accordance with prayer of said petition, ordered by the court the said Jos. S. Woolfolk and Lucy D. Woolfolk, and the others of said creditors who have made themselves in person parties to this suit, do answer the said petition on or before the third day of next *of the next* term of this
556 court, and that in default thereof, the same shall be taken as confessed, and service of this rule by letter or on attorneys of said parties be sufficient service thereof.

At the October term, 1869, of the Chicot circuit court, in chancery, on the 21st day of October, 1869, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG *v.* EMMA J. WRIGHT.

Now, on this day, comes Charles H. Carlton, and files his declaration denying being attorney of Joseph S. Woolfolk, a party defendant in this cause.

Response of C. H. Carlton.

In the Chicot C't C't. In Chancery. At October Term, A. D. 1869.

CREDITORS OF J. W. CRAIG
vs.
EMMA J. WRIGHT *et al.* } Pet., &c., of W. H. Todd.

Charles H. Carlton, upon whom process of subpœna has
557 been served in this cause, as attorney, &c., for Joseph S. Woolfolk, denies that he is such attorney; but, on the contrary, that in the progress heretofore made in this cause he has been the attorney of said petitioner, and he disclaim*ing* any interest in said cause on behalf of said Woolfolk, and prays to be hence dismissed with his costs.

C. H. CARLTON.

Endorsed: Filed in open court, this 21st day of Oct., 1869. W. H. Graves, cl'k.

At the October [term], 1869, of the Chicot circuit court, in chancery, on the 26th day of October, 1869, a day of said term of said court, among others, the following proceedings were had, viz:

THE CREDITORS OF JUNIUS W. CRAIG
v.
EMMA J. WRIGHT, as Executrix, *et al.*

558 Charles H. Carlton, Esquire, a solicitor of this court, having on a previous day of the term filed his disclaimer declaring himself not to be the solicitor of Joseph S. Woolfolk and Lucy D. Woolfolk in this case, the complain't, Wm. H. Todd, submits to the court here to determine—

1st. Whether any notice to the said Joseph S. and Lucy D. Woolfolk was necessary of the rule entered at the last term of this court requiring them to answer the petition of the said William H. Todd other than the entry of the said rule and order upon the record of the court in this case; and 2nd, whether the said Charles H. Carlton, having until the filing of the said disclaimer bee- the counsel of record in this case — the said Joseph S. and Lucy D. Woolfolk. The said rule was not properly served upon him as their solicitors. The court here of the opinion that their has been sufficient service of the said rule. It is, therefore, for the failure of the said Joseph
559 S. and Lucy D. Woolfolk to respond to said petition in obedience to the said rule, ordered, adjudged, and decreed that the said — and all the allegations be taken as confessed against them.

And on motion of the said William H. Todd leave is given him to take the depositions of witnesses in the interrogatories filed and without further notice.

The said Joseph S. and Lucy D. Woolfolk, being non-residence of the county, and having no agent or attorney here in support of the allegations of said petition and motion of Emma J. Wright, executrix, and of William P. Halliday for orders of payment, as expenses of administration, of the amount allowed and adjudged to them by the probate court of Chicot county, are continued for want of time to hear the same.

560 At the October term, 1869, of the Chicot circuit court, in chancery, on the 27th day of October, 1869, a day of said term of said court, among others the following proceedings were had, viz:

WILLIAM W. FRAZIER, Assignee of Alexander D. Kelly and A. D. Kelly & Co.; Samuel B. Newman, as executor of the will of Horace F. Wolforth, dec'd; Joseph S. Woolfolk; and Lucy D. Woolfolk, his wife, in her right; William H. Todd, Altona C. George, as executrix of the will of Hosea George, dec'd, creditors of the estate and successors of Junius W. Craig, dec'd, for themselves and all other creditors of the said estate,

v.

EMMA J. WRIGHT, as Executrix of the last Will of Junius W. Craig, dec'd; Emma J. Wright, has legatee of said Junius W. Craig; Charles H. Carlton, as administrator of the estate of Louis
561 E. Craig, dec'd; William B. Street, administrator of the estate of John P. Craig, dec'd; The City of Helena; The State of Arkansas; William P. Halliday, as executor of the will of

Junius W. Craig, dec'd; Sanford C. Faulkner, Eveline M. Faulkner, Sally F. Brown, and Henry M. C. Brown; Sanford C. Faulkner, Jr.; Matilda J. Buchanan, and —— Buchanan, her husband; Philip T. Faulkner and Mary P. Faulkner, infants, the heirs at law of Junius W. Craig, dec'd; Joshua M. Craig, as administrator of the estate of Junius W. Craig, dec'd; and Robert E. Craig, as administrator of John Anderson Craig, dec'd, Defendants.

For the purpose of perfecting the record in this case and of necessary orders, the continuance heretofore entered is set aside, and John S. Whitaker, of the State of Louisiana, and comes and produced to the court the letters testamentary granted him by order of
562 the 2d district court of the city of New Orleans, of the State of Louisiana, appointing him executor of the estate in Arkansas of the last will and testament of Horace F. Walworth, dec'd, the said Samuel B. Newman having resigned his executorship, and thereupon, upon motion of the said John S. Whitaker, he is substituted as complain-t herein in the place and stead of the said Newman, and as executor of the last will of Horace F. Woolworth, dec'd. 2d. And the said William P. Halliday never having qualified as executor of the will of the said Junius W. Craig, his letters testamentary having been refused by him by the probate court: It is ordered and adjudged that as against him, he having no interest in this suit, the bill original and the bill of revivor and supplemental bill be dismissed with his costs, and the said Joshua M. Craig hav-
563 ing long since resigned the administration of the same estate, it is ordered and adjudged that this suit be dismissed against him as administrator, but retained against him as one of the heirs-at-law of Junius W. Craig, deceased.

And the said Robert E. Craig having resigned the administration of the estate of the said John Anderson Craig, and the will of the said John Anderson Craig having been established and admitted to probate in the probate court of the county of Phillips, and letters of administration of his estate having been by that court granted to Arthur Thompson, of that county, as administrat*ion*, with will annexed, it is ordered and adjudged that this suit be dismissed against the said Robert E. Craig as administrat*ion*, but retained against him as one of the heirs-at-law of Junius W. Craig, deceased, and that the said Arthur Thompson, as such administrator, be made defendant in this suit, and required to answer the original
564 bill and bill of revivor and supplement, and that subpœna issue requiring him to appear and do so to the county of Phillips.

And the said Emma J. Wright, William P. Halliday, Thomas T. Wright, and Eliza Wright, by their solicitors, Pike and Adams, ask leave to dismiss the cross matter contained in their answer to their original bill in this case; whereupon such leave is granted, and the said cross matter is dismissed; and it appearing to the court here that on the 16th day of March, 1866, an order of publication was duly made in this case, giving notice of the filing and purpose of said original bill to the defendants, Henry M. C. Brown, Sanford C.

Faulkner, Jr., Chas. Morehead, Silas Price, and other heirs of said Junius W. Craig in the said order and also hereinafter named, and Alexander D. Kelley, as well as to the said Emma J. Wright, William P. Halliday, Thomas T. Wright, and Eliza Wright, and
565 warning them to appear; that the said order was duly and in due time published, and evidence of said publication filed in court here on the 16th day of October, A. D. 1866, but decree *pro confesso* was not entered therein.

And it appearing that process of subpœna was duly executed in this on the 16th day of March, 1866, upon the said Lewis E. Craig, Joshua M. Craig, Robert E. Craig, as administrators of the estate of John Anderson Craig, James S. Peak, and Nannie P. Peak; and on the 2nd day of April, 1866, at Pulaski county, on the said Sanford C. Faulkner, Eveline M. Faulkner, Sallie F. Brown, Matilda F. Buchanan, —— Buchanan, her husband, Philip T. Faulkner, Mary P. Faulkner, and the State of Arkansas as trustee. And on the 27th day of March, 1866, in the City of Helena. And the said Emma J. Wright, William P. Halliday, Thomas T. Wright, and Eliza Wright, and the City of Helena having answered the bill in this case
566 on the 27th day of June, A. D. 1866, the said Emma J. Wright, William P. Halliday, Thomas T. Wright, and Eliza Wright, now here, by their solicitors aforesaid, withdraw their said answer, and consent to the decree asked by said original bill, and to the appointment of receiver heretofore made, and to the sale of the lands of said estate, and to the transfer of the assets of said estate to the receiver aforesaid, not admitting any of the allegations which charge maladministration or wrongful action in the said defendant-, or either of them; therefore the said answer standing as the answer of the City of Helena alone, the complainants filed their general replication to it in short on the record.

And the original bill in this case having been taken as confessed, on the 28th day of June, 1866, as against the said Lewis E. Craig, Robert E. Craig, as administrators of the estate of John Anderson Craig, deceased, and James S. Peak and Nannie P. Peak, and
567 the said Lewis E. Craig having afterwards answered the said bill, and the City of Helena having, on the 2d day of November, 1867, been served with process upon said bill of revivor, and supplement and process therein having also, on the 2d day of September, A. D. 1867, served on the said William B. Street, as administrator of the estate of the said John P. Craig, and on the 13th day of September, 1867, on the said Charles H. Carlton, as administrator of the estate of Lewis E. Craig, the complainants filed their general replication to the answer of the said Lewis E. Craig, which is ordered to stand as the answer of the said Charles H. Carlton, as administrator of his estate. And the said Emma J. Wright, having appeared and demurred to the said bill of revivor and supplements on the 4th day of December, 1869.

And the answers of James Whitehead, George M. Craig, Edward Eggleston, George Eggleston, Lowry C. Eggleston, Olive
568 Hanks, Ann S. Hanks, Mildred Hanks, Graves Hanks, John Hicks, Samuel Hicks, and Bruce Hicks, and Alexander C.

Ferguson, minors, and as to all of whom notice was regularly given as aforesaid, having been filed by their guardians *ad litem*, and replications filed to the same.

And on the 14th day of December, 1867, the bill original and the bill of revivor and supplement having been irregularly taken, as confessed against all the defendants, all of them being therein stated to have been duly served with notice:

It is therefore now ordered, adjudged, and decreed that all the allegations and statements in the said original bill contained be taken as confessed against the said Henry M. C. Brown, Sanford C. Faulkner, Jr., Charles S. Morehead, Silas Price, Mellissa P. Craig,
Robert W. Craig, Syrene Gex, Sarah McCastin, Mrs. McCas-
569 tin, her husband, and Elizabeth Schaffer, —— Schaffer, her husband, Jane Brown, James Brown, John W. Price, Florida Price, Syrena Lathope, Willie Lathrope, Nannie P. Peak, Anderson O'Neil, Walton Craig, Albert G. Craig, Benjamin F. Craig, Elward Brooking, Thomas Whitehead, Chas. Ingles, Polly Ann Ingles, Benjamin O'Neil; H. S. Kennedy and others, heirs unknown, of Priscilla Kennedy, deceased; John S. Craig, Mary C. Williamson, William V. Allen, E. Kate Allen, William D. Ferguson, Charles McKinney, Mary Ann McKinney, Benjamin Davis, Mart Davis, John O'Neal, William O'Neal, Mary P. Maison, Benjamin Bledsoe, Thomas L. Beard, Elizabeth Beard, John H. Van Hork, Sarah Van Hork, Caroline Bledsoe, Dora Brown, Annie Bledsoe, Parmelia Choate, Nancy Flynn, Elizabeth Flynn, Lydia Montgomery, S. N. Bledsoe, Nancy T. Patterson, Malcome Patterson, Marth Morran, Thomas A. Moran,
one other unknown heir of Lucy Ann Baily, dec'd, Sarah
570 E. Craig, Gazzel B. Robberts, Joseph R. Roberts, William J. Eggleston, George C. Patton, Miles Mendenhall, Nancy T. Mendenhall, George H. Kyle, Tobicka C. Kyle, Alice Craig, DeKalb Craig, Albert G. Hanks, Daniel Bledsoe, Georgeain Bledsoe, Samuel Craig, Sarah Craig, Silas Craig, William Craig, Robert Russell, Sarah P. Russell, Melton Hanks, Dorcas D. Hanks, John F. McConn, Joseph Craig, Susan Craig, Jordan C. Peak, Leland W. Peak, Dudly P. Peak, Lauranda Craig, and Alexander D. Kelley, against whom publicacation was made, as aforesaid, of said order of the 16th day of March, 1866, and none of them having appeared and offered demurrer, plead an answer herein. It is further ordered and adjudged that all the allegations of the said original bill be taken as confessed against such of them as of the fourth day of the Octo-
571 ber term of this court, of the year 1866; and that the same stand as final and absolute against them hence forward forever

And it is further ordered, adjudged, and decreed, and all the allegations in the said original bill contained be taken as confessed against the said Joshua M. Craig, Robert E. Craig, Sanford C. Faulkner, Eveline M. Faulkner, Sallie F. Brown, Matilda J. Buchanan, and —— Buchanan, her husband, and the said State of Arkansas, all of whom have wholly failed to appear here and make defense, though duly served with process therein.

And that the decree *pro confesso* taken on the 28th day of June, A. D. 1866, against the said James P. Peak, be now made final and

absolute; and that that against the said Robert E. Craig, as administrator of the estate of John Anderson Craig, deceased, become final unless the said Arthur Thompson, as administrator, with the
572 will annexed, of the same estate, shall show cause to the contr-y on or before the third day of the next term of this court. And it is further ordered, adjudged, and decreed that the decree "*pro confesso*," heretofore taken as against William B. Street, as administrator of the estate of John P. Craig, be made final and absolute.

And the order of publication made in March, 1866, never having been published, by error in omitting his name, made by the clerk or printer, it is ordered by the court that notice be given him of the pendency of this suit by advertisement in the legally authorized official paper, by four weekly insertions, that the same is pending for the sale of the lands and distribution of the assets of the estate of Junius W. Craig, dec'd, and warning him to appear at the next term of the court here, to be held on the third Monday after
573 the fourth Monday in March next, and defend against the same if he desires. And the defendants, Philip T. Faulkner and Mary P. Faulkner, the infant child of Enoch Bledsoe, whose name is unknown, of Miles N. Hicks, dec'd, and one of the unknown heirs of Priscilla Kennedy, dec'd, and some of the unknown heirs of Lucy Ann Bailey, dec'd, all of whom has been served with process or notice given them by publication, being ruinous, D. H. Reynolds, Esq., is appointed — *ad litem* and files their joint and several answers, demanding proof of everything allege- in the original bill and the bill of revivor and supplemental bill, and praying the benefit of all defenses thereunto, to which the complainant files their general replication. And prayer of the said Emma J. Wright, executrix, it is ordered by the court that Charles W. Fry, the receiver in this cause, do give bond with two sureties in the sum of five thousand dollars, the sureties to be approved by the court, and
574 the bond being executed to the State of Arkansas for the benefit of the creditors of said estate and all other persons that may be interested therein, conditioned that he will faithfully discharge the duties of receiver in this case and obey the orders of the court therein, upon executing which bond, and taken the oath required by the statute, the said receiver will proceed to receive rent, to collect the assets of the said estate from all persons having them in possession, to take and keep possession of the property thereof, to bring and defend actions, receive rents, and collect debts, and generally to do whatever the court may authorize in regard to the said estate, and he will report to the court here at the next term thereof the condition of such assets and of all suits pending in regard thereto.

Also comes Charles H. Carlton, survivor of the law firm of
575 Chapman and William B. Street, and file herein the exemplification of an order and judgment of the probate court of the county of Chicot, made and entered by that court on the fourth day of November, A. D. 1867, in the matter of the estate and succession of the said Junius W. Craig, by whom the said court ad-

judged to Joshua M. Craig, administrator of said estate, the sum of $5,389.00, a balance due him by said estate in regard to his administration, with an assignment and transfer made on the record of the same to Chapman & Carlton of $3,404.50, of the said allowance and judgment to the said William B. Street of $1,984.55 of the same, and the said Charles H. Carlton and William B. Street respectfully pray the court that the said sum, with interest, may be allowed to them respectively as expenses of administration of the said estate, and be ordered to be paid out of the fund in the hands of the
576 receiver herein or under their control.

Which motion and those of Emma J. Wright and William P. Halliday for payments of allowances made them by the probate court are continued until the next term of the court, and Charles W. Fry, Esq., the receiver in this case, comes and offers his bond as receiver, made to the State of Arkansas for the benefit of the said creditors and all others interested, in the sum of $5,000.00, conditioned according to law, with James F. Robinson, William B. Street, and Daniel H. Reynolds as his sureties, who all appeared by the court, and the said bond is approved by the court and ordered to be filed, and thereupon the said Charles W. Fry was duly sworn faithfully to discharge the duties of receiver in this action and to obey the orders of the court herein, and is directed by the court to enter upon the discharge of his duties as hereinbefore directed.

And it is ordered that this cause be hereafter entitled on
577 the record The Creditors of Junius W. Craig, dec'd, *vs.* Emma J. Wright, executrix of the will of Junius W. Craig, his heirs-at-law and legatees and others, and it is continued.

STATE OF ARKANSAS, *County of Chicot:*

Be it remembered that at a regular term of the Chicot circuit court, on the chancery side thereof, begun and held at the court-house of said county, in the town of Lake Village, on Monday, the 12th day of April, A. D. 1869; that on the 2d day of said term, among others, the following order was made:

WILLIAM H. TODD, JOSEPH S. WOOLFOLK and Wife, and others, Creditors of the Estate of JUNIUS W. CRAIG,
v.
EMMA J. WRIGHT, Executor, & others. } 82.

578 William H. Todd, one of the creditors of the estate of Junius W. Craig, who are complainants in this cause, having in vacation filed his petition in respect to the marshalling of the assets of the said estate, and preference of a certain claim of A. D. Kelly & Co. over all others, it is now, upon his motion and in accordance with the prayer of said petition, ordered by the court the said Joseph S. Woolfolk and Lucy D. Woolfolk, and the others of said creditors who have made themselves in person parties to this suit, do answer the said petition on or before the third day of the next term of this court, and that in default thereof the same shall be taken as confessed, and service on this rule by letter or on the attorneys of said parties be sufficient service thereof.

STATE OF ARKANSAS, *County of Chicot:*

I, H. W. Graves, clerk of the circuit court for the above-
579 named county and State, do certify that the foregoing paper of writing is a true and correct copy of order of notice on Joseph S. Woolfolk and wife, and other creditors of the estate of Junius W. Craig, as the same is on record in my office, Chancery Book "C," page 412.

In testimony whereof, I hereto set my hand, and affix the seal of said court, at office, this 14th day of May, 1869.

[SEAL.] H. W. GRAVES, *Clerk.*

I executed this writ by mailing to the address of the within named Joseph S. Woolfolk and Julia D. Woolfolk, his wife, a true and correct copy of the same, this 15th day of September, 1869.

F. P. WALKER, *Sheriff.*

In the Chicot Circuit Court. October Term, 1869. In Chancery.

580 JOSEPH S. WOOLFOLK, WM. H. TODD, and others, Creditors of the Estate of Junius W. Craig, for themselves and all other Creditors of the said Estate,

v.

EMMA J. WRIGHT, as Executrix, and others.

The said Emma J. Wright, as executrix, comes and represents to the court here that after the death of the receiver, Johnson Chapman, first appointed in this cause, the court here appointed Charles W. Fry receiver, who has never given bond as such, nor taken any control of the assets of the said estate; that the lands of said estate have been sold, but there are choses in action with liens on real estate to secure some of them, to the amount and value of one hundred thousand dollars and more, in the hands of attorneys for collection, as to which the said receiver knows little or nothing, and she as executrix has no information, nor any power or right;
581 hence the order made by this court to hold the said attorneys to account; that she has sold and ceded her interest in the said estate, as legatee, to William H. Todd and Joseph S. Woolfolk, and has no further interest in the said estate as legatee, and has consented not to insist on any her rights as executrix as against the said Todd and Woolfolk and the other creditors, in regard to the management and control of the said estate, but has an allowance against the same made in her favor by the probate court of the county of Chicot for almost the sum of ten thousand dollars, which is unpaid, and the payment whereof the creditors of the said estate and the administrator of a legatee (although he alleges, as is true, that the estate is insolvent) are seeking to avoid, by appeal to the supreme court of the State. And she deems it her duty as executrix to represent that the said Charles W. Fry has never given any bond as receiver; has not come before the court here at the
582 present term to render any account or receive any directions; has possession of none of the assets, and is utterly inactive

as receiver, all the choses in action being in the hands of different attorneys, of whom some hold interests adverse to the collection of such assets, and none of them are accounting to any one, or deem it necessary to account to any one, in respect of the matters of the said estate in their hands. The said Emma J. Wright being still such executrix, and retained in court here as defendant in the said creditors' suit, presented to the court here the condition of the said estate, which, after being worth eight hundred thousand dollars, has become insolvent, and the choses in action whereof have hitherto proven of little benefit to the creditors, and seem likely to become by mismanagement and neglect altogether valueless; and she prays the court, in behalf of herself and the other creditors of the said estate, that the receiver be required to give bond, and to take possession of the assets of the said estate, to see them collected,
583 and the liens in favor of the said estate or real estate enforced; to call upon all the attorneys having such claims in their hands for collection to account for the same, and as rapidly as possible to bring all such matters to a close, and permit the creditors to have the benefit of such of the said assets as have not already been wasted and lost. Or if the court is powerless to effect this, that it may release this executrix from all responsibility, and permit her to retire altogether from the management of the said estate.

EMMA J. WRIGHT, *Executrix*,
By ALBERT PIKE, *Solicitor*.

Endorsed: Filed in open court, this 27th day of October, 1869. H. W. Graves, clerk.

STATE OF ARKANSAS, *County of Chicot:*

584 Be it remembered that at the regular term of the probate court of Chicot county, Arkansas, begun and held at the court-house of said county, on Monday, the 28th day of October, A. D. 1867, that on the 4th day of November, it being the 6th day of said term of court, that, among others, the following proceedings were had, to wit:

Final Ac. Current of J. M. Craig, Adm'r.

In the Matter of Est. JUNIUS W. CRAIG.

And now, on this day, comes up for settlement and confirmation the final account current of Joshua M. Craig, late administrator of said estate, which was filed at the July term, A. D. 1867, of this court, and continued unto this term for inspection, &c., of all concerned; and the exceptions of Emma J. Wright, R. A. Goodloe, and others, creditors of said estate, heretofore filed herein, having been duly considered by the court, and all of said exceptions but
585 the first named, which relates to the item of $33.89, charged the estate for taxes paid on lands in Drew county, having been overruled by the court as not well taken, leave is therefore granted the said Joshua M. Craig to amend his account by deducting said $33.89 from the credit side of his ac. herein, which is accord-

ingly done; and the court having carefully examined said account, so amended, and it appearing that after charging the said Joshua M. Craig, as adm'r, &c., with the balance in his hands as per his last settlement as such, and with all assets that have come to his hands since then, and giving him all lawful credits for monies expended on account of said estate, there remains to the credit of the said Joshua M. Craig, as a balance against said estate, the sum of five thousand three hundred and eighty-nine $\frac{5}{100}$ dollars ($5,389.05)—

586 Ordered by the court that said settlement be, and the same is hereby, approved and confirmed, and that it be spread upon the record of administrator's account; and it is further ordered that the said Joshua M. Craig, late administrator of said estate of Junius W. Craig, and all the sureties on his bond, as such administrator, be, and they are hereby, relieved from all further liability as such bondsmen and sureties.

Endorsed on margin:

For value received I assign and set over unto Chapman and Carlton thirty-four and four hundred & $\frac{50}{100}$ (3,404$\frac{50}{100}$) of the balance to my credit on this account current, and the remainder of the same, being ($1,984.55) nineteen hundred and eighty-four dollars and fifty-five cents, I hereby assign and set over unto William B. Street, for value received, this 4th day of November, A. D. 1867.

J. M. CRAIG.

Attest: H. H. SMITH, *Clerk*,
By JAS. McMURRAY, *D. C.*

587 STATE OF ARKANSAS, *County of Chicot:*

I, W. H. Graves, clerk of the county court, and *ex-officio* clerk of the court of probate of said county of Chicot, do hereby certify that the above and foregoing two pages of writing are a true, correct, and compared copy of an order and an assignment on Probate Record "D," page 33.

In testimony, whereof I have hereunto set my hand as such clerk, and affixed the seal of my office, this 27th day of October, A. D. 1869.

[SEAL.] H. W. GRAVES, *Clerk.*

Endorsed as follows: Filed in open court, this 28th day of October, 1868. H. W. Graves, clerk.

In the Circuit Court of Chicot County, Arkansas. In Chancery.

588 In the Suit of WILLIAM H. TODD, and others, Creditors of the Estate of Junius W. Craig, Dec'd,

vs.

EMMA J. WRIGHT and others.

The petition of William P. Halliday, one of the creditors of the estate of Junius W. Craig, deceased, and one of the defendants in the above-entitled cause, respectfully represents:

That on the 27th day of January, 1868, the estate of said Junius W.

Craig, deceased, was indebted to petitioner in the sum of $15,263 36/100 for money paid out and expended by him in paying cost and attorneys' fees in establishing the last will and testament of said Junius W., dec'd, in the courts of the States of Kentucky and Arkansas, and for personal expenses in travelling, attending courts in Kentucky and Arkansas, and about the business of
589 said estate, for compensation as executor or conservator of said estate from September, 1858, to April, 1861, and for other money expended for the benefit of said estate; and that on said 27th day of January, 1868, petitioner presented his account for said sum of $15,263 30/100, duly authenticated according to law, together with a petition explaining the same, to Miss Emma J. Wright, executrix of said estate, for allowance as a claim against said estate, and said executrix allowed the same.

That at the January term, 1868, of the Chicot probate court (Feb'y 6, 1868), petitioner filed his account thus allowed in said court for allowance and classification, and the same was continued until the April term of said court, 1868; and at said April term said William H. Todd and Joseph S. Woolfolk, two of the complainants in the above-entitled cause, filed their objections to
590 the allowance and classification of petitioners' said account as a claim against said estate; and said court, after examining said accounts and the objecting to the same and hearing the evidence and argument of counsel, allowed said account to the amount of eight thousand nine hundred and eighty-three dollars ($8,983), and rendered a judgment against said estate in favor of petitioner for that amount, and that the same be paid out of said estate as expenses of administration and proving the last will of said Junius W. Craig, deceased. A duly certified copy of said judgment is hereto annexed, marked Exhibit "A," and made part hereof. (See also page 6, Schedule B, of the report of Johnson Chapman as receiver herein.)

That at the time said judgment of said probate court was rendered the assets of said estate were in the hands of Johnson
591 Chapman, the receiver appointed by this court herein at the December term, 1867; that said sum, $8,983, remains unpaid, as does also the interest accruing thereon since the 8th day of May, 1868; that it appears from the papers in this cause that the lands belonging to said estate have been sold by said receiver, and that said William H. Todd purchased the greater portion thereof, and that on the 28th day of October, 1868, said Todd had in his hands of the money arising from the sale of the unmortgaged lands of said estate the sum of $43,294.46, and that he on that day executed his bond to C. W. Fry, receiver of said estate, and successor of Johnson Chapman, binding himself to pay unto this court such sums as might by this court or any other competent tribunal be adjudged to be payable by him out of said sum of $43,294.46 to any person or persons for cost or as expenses
592 of administrator, &c. (see receiver's report and Todd's refunding bond in this cause); and that the said Todd still holds said sum of $43,294.46, for the greater part thereof subject to be paid out

upon the order of this court as aforesaid; wherefore petitioner prayed for an order for said sum of $8,983, together with interest to be paid him, and that the same be paid as expenses of administration out of the money in the hands of said Todd, arising from the sale of the unmortgaged lands of the estate of said Junius W. Craig, dec'd, and for such other and further relief in the premises as may be consistent with equity. And as in duty bound, petitioner will ever pray, &c.

WILLIAM P. HALLIDAY,
PIKE, ADAMS & PIKE,
D. H. REYNOLDS,
Solicitors.

593 EXHIBIT "A."

STATE OF ARKANSAS, *County of Chicot:*

Be it remembered that at a regular term of the probate court of Chicot county, State of Arkansas, begun and held at the court-house in the town of Lake Village, on Monday, the 27th day of April, A. D. 1868, among others, the following proceedings were had, to wit:

WM. P. HALLIDAY
v.
EST. JUNIUS W. CRAIG. } 891. Claim, &c.

On this day comes up for hearing the exceptions on file herein, which were so filed on the 2nd day of this term, on which filing the claimant then excepted, and it is ordered that the record of said filing and the exception thereto be entered *nunc pro tunc* as
594 of that day; and on the fifth day of this term the said claimant took issue in short to the exceptions of said Wm. H. Todd and Joseph S. Woolfolk, which issue, it is ordered, shall now be entered of this 5th day of this term; and, therefore, after argument of counsel, and upon the evidence adduced, the court is of the opinion, and doth find, that the exceptions of said Todd and Woolfolk to vouchers A, B, D, F, G, & P be overruled, and that exceptions to $400.00 of voucher R be sustained, and as to the residue of said voucher R, that it be overruled; and to the said several ruling of the court the defendant Todd and Woolfolk excepted at the time; and the court further overruled of said Todd and Woolfolk to items H, I, J, K, L, M, N, and O, to which rulings of the court the said exceptors excepted at the time, and the court, upon considerations of the
595 exceptions of said Todd and Woolfolk to vouchers C, E, Q, & S, is of the opinion that the same are well taken, and the court sustains said exceptions; and as the items of personal expenses and outlays or extra travelling to and attending courts in Kentucky and Arkansas, the court allows the sum of $2,000.00, and for compensation or as conservator of said estate the court doth allow the sum of $2,000.00; and the exceptions of said exceptors to the amount charged or residue of Henry S. Foot's fee

as attorney, the court is of opinion that the exceptions are well taken, and sustained the same, to all which overruling the exceptions, as aforesaid, the exceptors excepted at the time.

And thereupon the said claim having been adjusted as corrected by the court, and the court being of the opinion that the said claim so adjusted and corrected is a just and subsisting one against said estate—

596 It is therefore considered by the court that the said William P. Halliday do have and recover of and from the said estate of Junius W. Craig, deceased, the sum of eight thousand nine hundred and eighty-three dollars for his debt.

And it is further ordered that said claim be allowed and paid out of said estate as expenses of administration and proving the last will of said Junius W. Craig, deceased. To all of which ruling of the court the defendant excepted at the time, and the said claimants also excepted to the ruling of the court in sustaining exceptions to items in this account at the time the same were sustained.

STATE OF ARKANSAS, *County of Chicot:*

In testimony that the foregoing is a true and correct copy from the probate court record of Chicot County, Arkansas, of an order on the claim of W. P. Halliday against the estate of J. W. Craig,

597 I, H. W. Graves, clerk of said court, hereunto set my hand and affix the seal of said court, at office, this 18th June, 1869.

[L. S.] H. W. GRAVES, *Clerk.*

Endorsed as follows: Filed in my office this 8th day of July, A. D. 1869. H. W. Graves, clerk.

In the Circuit Court of Chicot County, Ark. In Chancery.

In the suit of WM. H. TODD, and others, Creditors of the estate of Junius W. Craig, deceased, *vs.* EMMA J. WRIGHT and others. } 82.

The petition of Emma J. Wright, one of the creditors of the estate of Junius W. Craig, deceased, and executrix of said estate,

598 and one of the defendants in the above-entitled cause, respectfully represents:

That by the last will and testament of Junius W. Craig, deceased, petitioner was appointed executrix of said last will, and that on the — day of ———, 1867, she qualified as executrix. At the January term, 1868, of the probate court of Chicot county petitioner filed in said court her account current as such executrix, showing that after charging herself with all the assets that came to her hands, and crediting herself with all monies paid out by her in establishing said last will, and in paying expenses of said administration, there was a balance due petitioner of $14,737.28; that said account current was continued until the April term, 1868, of said probate court for inspection and examination of all concerned, and

that at said April term said Joseph S. Woolfolk and Lucy D., his wife, and Charles H. Carlton, as adm'r of the estate of Lewis E. Craig, deceased, filed their exceptions to said account current,
599 and, after examining said account current and exceptions, and hearing the evidence and argument of counsel, said probate court held that said executrix was in duty bound to prove up and establish said last will and testament, and was entitled to reasonable compensation therefor, and for traveling expenses and attorney's fees incurred in that behalf, and that she was entitled to credit for same in account current, and overruled some of said exceptions in whole and others in part, and sustain[ed] still others of them, and thereupon proceeded to adjust and correct said account current; and upon such correction and adjustment there was found to be a balance in favor of petitioners against said estate of the sum of $10,719.12; and said account current, showing said balance of $10,719.12 due to petitioners as expenses of administration, was approved and confirmed by said probate court. A duly certified
600 copy of said order and judgments of said probate court adjusting, approving, and confirming said account current is hereto annexed, marked Exhibit "A 1," and made part hereof. See also (Schedule "B," page 6,) of report of receiver herein.

That said executors appealed from the judgment of said probate court to law side of this court, and that [at] the April term, 1869, the judgment of said probate court was, by said circuit court, in all things approved and affirmed. That at the time said account current was approved and confirmed the assets of said estate had passed into the hands of the receiver appointed by this court in this case; and that said sum of $10,719.12 remains unpaid, as does also the interest accruing thereon from the date of the approval and confirmation of said account current in said probate court May 8th, 1868.

That it appears from the papers in this cause that on the
601 28th of October, 1868, said William H. Todd had in his hands, of the money arising from the sale of the unmortgaged lands of said estate, the sum of $43,294.46; that he executed his bond on that day to C. W. Fry, receiver of said estate, binding himself to pay into this court such sums as might by this court, or any other competent tribunal, be adjudged to be payable by him out of the said sum of $43,294.46 to any person, or persons for cost, or as expenses of administration, &c. (see Todd's refunding bond filed in this cause), and that said Todd still holds said sum of $43,294.46, or the greater part thereof, subject to — paid out upon the order of this court as aforesaid.

Wherefore petitioner prays for an order for said sum of $10,719.12, together with the interest due thereon, to be paid to her as expenses of administration. and that the same be paid out of money in
602 the hand- of said Todd arising from the sale of the unmortgaged lands of said estate of Junius W. Craig, deceased, and for such other and further relief in the premises as may be con-

sistent with equity. And as in duty bound, petitioner will ever pray, &c.

EMMA J. WRIGHT.
PIKE, ADAMS & PIKE,
D. H. REYNOLDS,
Solicitors.

EXHIBIT "A 1."

STATE OF ARKANSAS, *County of Chicot:*

Be it remembered that at a regular term of the probate court of Chicot county, State of Arkansas, begun and held at the court-house of Lake Village, on Monday, the 27th day of April, A. D. 1868, among others the following proceedings were had, to wit:

603 In the Matter of Account Current of EMMA J. WRIGHT, Est. of JUNIUS W. CRAIG.

And now, on this day this account coming up for adjustment and settlement, and the court having heard and examined the exceptions on file herein, is of opinion and doth find that the said executrix was in duty bound to prove up and establish the last will and testament of said Junius W. Craig, deceased, and entitled to reasonable compensation therefor, and for traveling expenses and attorney's fees incurred in that behalf, and that she received a credit as for account for such expenses; and there being an evident error in the date of certain items specified in said account, it is ordered that said date be corrected so as to correspond to the date of the vouchers D and E, to which they relate, and thereupon the court sustains the exceptions as to item "Q" so far as it related to $150.00 of said item, and the exceptions to the remainder thereof is overruled; and the court further overruled the defendants' exceptions to voucher 3, and exceptions to vouchers 4 to 25, inclusive, and to 1,328.34 of voucher 26, and to the remainder of said voucher the court sustains the exceptions of defendants; and the court further overrules the exceptions to vouchers 27 to 33, inclusive, and allows for personal expenses in establishing said will the sum of $2,000.00, and for personal expenses in executing said will the sum of $300.00 for the years 1866 and 1867, and for other personal services and commission the sum of $3,500.00.

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To which several rulings of the court the defendants excepted to at the time, and the said exceptions to items No. 35 was sustained by the court; and it appearing that the account was filed at a former term of this court and continued unto this term, subject to the inspection, &c., of all concerned, and no further exceptions having been filed to the same or to any item thereof, the court thereupon proceeded to adjust said account as corrected as aforesaid, and upon such adjustment and correction it is found that after charging said executrix with all assets that have come to her hands, and giving her all lawful credits for monies paid out on account of said estate, there remains to her credit, or against said estate, the sum of $10,719.12. Ordered that said settlement so made

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aforesaid be, and the same is hereby, approved and confirmed, and that it be spread upon the record of administrator's accounts, &c.

STATE OF ARKANSAS, *County of Chicot:*

606 In testimony that the foregoing is a true and correct copy from the probate record of said county and State in the matter of account current of E. J. Wright, ex'r, &c., of J. W. Craig, dec'd, I, H. W. Graves, clerk of the probate court hereto, set my hand and affix the seal of said court, at office, this 17th June, 1869.

[L. S.] H. W. GRAVES, *Clerk.*

Endorsed as follows: Filed in my office this 1st day of July, A. D. 1869. H. W. Graves, clerk.

Receiver's Bond.

Know all men by these presents, that we, Charles W. Fry, as principal, and James T. Robinson, William B. Street, and Daniel H. Reynolds, as his sureties, are held and firmly bound unto the State of Arkansas in the sum of 5,000.00, good and lawful money of
607 the United States, to the payment whereof well and truly to be made unto the said State for the use and benefit of the creditors of the estate of Junius W. Craig, deceased, and of all or any persons interested in the said estate, we bind ourselves, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Signed and sealed this twenty-eighth day of October, in the year of our Lord one thousand eight hundred and sixty-nine.

Conditioned, that whereas the said Charles W. Fry has heretofore been appointed by the circuit court of Chicot county, in the State of Arkansas, receiver of the estate and the assets of the estate of Junius W. Craig, deceased, in the certain suit in chancery pending in the said court, wherein William H. Frazier, assignee of Alexander
608 D. Kelly and of A. D. Kelly & Co., Joseph S. Woolfolk, Lucy D. Woolfolk, William H. Todd, and Altona C. George, adm'x, and others, creditors of said estate, for themselves, and all other creditors of the same, are complainants, and Emma J. Wright, as executrix of the will of the said Junius W. Craig, and others, are defendants:

Now, therefore, if the said Charles W. Fry shall faithfully discharge the duties of receiver in the said action, and obey the orders of the said court therein, then the above bond to be void; else to remain in full force and effect.

CHARLES W. FRY. [SEAL.]
JAMES F. ROBINSON. [SEAL.]
D. H. REYNOLDS. [SEAL.]
WM. B. STREET. [SEAL.]

Chicot Circuit Court. Oct. Term, 1869.

Acknowledged in open court, this 28th day of October,
609 1869, and the sureties approved by the court.

H. W. GRAVES, *Clerk.*

Endorsed: Filed in open court, this 28th day Oct., A. D. 1869. H. W. Graves, clerk.

Chicot Circuit Court.

CREDITORS OF JUNIUS W. CRAIG, Deceased,
v.
EMMA J. WRIGHT, Executrix of the will of Junius W. Craig, his heirs-at-law and legatees, and others. } 82.

The joint and several answers of Philip T. Faulkner and Mary P. Faulkner; the infant child of Enoch Bledsoe, name unknown; the infant child of Miles N. Hicks, name unknown; and the unknown infant heirs of Priscilla Kennedy, dec'd; and the unknown heirs of Lucy Ann Bailey, deceased, minors, under the age of
610 twenty-one years, by Daniel H. Reynolds, their guardian *ad litem*, so of defendants to the original bill and bill of revivor and supplemental bill of complaint.

These defendant-, answering by their said guardian, say that they are strangers to all and singular the matters and things in the said original bill of complaint and bill of revivor and supplemental bill contained, respectively, and they demand strict proof of everything alleged therein. That these defendants are infants, under the age of twenty-one years, and claim the benefit of all defences thereunto, and such interest in the premises as they are entitled to, and submit their interest to the protection of this honorable court.

D. H. REYNOLDS,
Guardian ad Litem.

STATE OF ARKANSAS, *County of Chicot:*

611 D. H. Reynolds, the guardian *ad litem* of the above-named infants, was on this 28th day of October, 1869, sworn before me that he had read the foregoing answer, and that he is informed and verily believes that the facts therein stated are true.

Endorsed: Filed this 28th day October, 1869. H. W. Graves, clerk.

At the April term, 1870, of the Chicot circuit court, in chancery, on the 19th day of April, 1870, the day of said term of said court, among others the following proceedings were had:

WILLIAM H. TODD *et al. vs.* EMMA J. WRIGHT *et al.*

Now on this day comes Altona C. George, executrix of the will of Hosea George, deceased, by H. Hays, her solicitor, and moves
612 the court for leave to interplead and be made a co-defendant with Joseph S. Woolfolk and Lucy D. Woolfolk, his wife, in the petition exhibited against them by William H. Todd in this cause, and said motion is by the court allowed and said leave given, and thereupon the said A. C. George files her answer and interrogatories to said petition.

In the Circuit Court of the County of Chicot and State of Arkansas.
In Chancery.

In the Suit of WM. H. TODD, ALEXANDER D. KELLY, GEORGE A. D. KEUFNER, JOS. S. WOOLFOLK, and others, Creditors of the Estate of Junius W. Craig, deceased,

vs.

EMMA J. WRIGHT, Executrix of the last Will and Testament of Junius W. Craig, deceased, and the heirs-at-law of the same, and others.

613 Al'na C. George, executrix of the last will of Hosea George, deceased, one of the creditors of the estate of Junius W. Craig, dec'd, and one of the complainants in the above-entitled cause, interpleading and protesting in answer to the petition of Wm. H. Todd, also one of said complainants, exhibited in the cause against Jos. S. Woolfolk and Lucy D. Woolfolk, his wife, other of said complainants and creditors, answering, states that she knows nothing of the matters and things stated in said petition in *regulation* to the actions and doings of the said Jos. S. Woolfolk and Lucy D. Woolfolk, his wife, in bringing suit in the chancery court at Louisville, Ky., or in any other matter of Woolfolk and wife in connection with said estate of Junius W. Craig, outside of this State, and she most solemnly protests against any one of said creditors take any
614 steps in this cause which is to operate to the prejudice and injustice of other creditors, and especially to action of said Wm. H. Todd in attempting in and by his said petition to bolster up a claim against the said estate of Junius W. Craig wrongfully and fraudulently allowed by the administrators of said estate on the 26th day of April, 1859, as a claim against said estate, to the amount of forty-five thousand six hundred and seven dollars and seventy-six cents, $45,607.76, in favor of said A. D. Kelly & Co., of the city of New Orleans, and also in attempting in and by his same petition now for the first time and at this late day to have the illegal and fraudulent action of the administrators of said estate and said A. D. Kelly & Co. in getting said claim classed illegally and fraudulently by the probate court of said county in the third class of claims against said estate, on the 30th April, 1859, as well as the illegal and fraudulent classification of said claim by said court, con-
615 firmed and enforced, to the manifest injury and injustice of said creditors, in fact, to the exclusion of the most of said creditors, from taking any part of the remaining assets of said estates.

This respondent admits that said claim was founded upon an open merchant's account by and between the said Junius W. Craig and the said A. D. Kelly & Co., running from May 19th, 1858, to the 7th of September, 1858, and that the balance at that time stated in said account against said Craig is $45,607.76, and that on the 12th of January, 1859, A. D. Kelly, a member of the firm of A. D. Kelly & Co., swore that nothing had been paid or delivered toward the satisfaction of said demands, except what is credited thereon, and that the sum of forty-five thousand and six hundred and seven dollars and seventy-six cents above demanded is justly due said firm; that on the 26th day of

April, 1859, said claim was presented to Joshua M. Craig and
616 John R. Lewellyn, then acting as administrators of said estate, for allowance, and on that day allowed by said administrators to the full amount and filed in the probate court; that at the term of the probate court of said county then in session, which commenced on the 25th of April, 1859, and ended on the 17th day of May, 1859, said administrators, on the 30th day of April, 1859, presented their petition to said court, setting forth divers and sundry matters in relation to said claim and said estate, as stated in said Wm. H. Todd's petition, and submitted whether said claim ought to be paid in the third or fourth class, and praying the court to class it as might be just, and to order the payment of it, &c., and that said court, on said 30th day of April, 1859, then and there, in open court, classed said claim in the third class of claims against said estate, and
617 ordered it to be paid upon the surrender of some bonds and bills said to be in the hands of said A. D. Kelly & Co. belong-to said estate; that on the 18th day of December, 1865, said A. D. Kelly & Co., in liquidation, receipted said claim on the record for the sum of $19,266.09, and on the same day they assigned upon the record $20,000.00 of said claim to one Wm. M. Frazier, and that on the same day again they assigned the balance of said claim (not stating any sum) to said Wm. M. Frazier, and that on the 11th day of July, 1867, said Wm. M. Frazier assigned upon the record said claim (not stating any sum) to said Wm. H. Todd without any recourse upon said Frazier; which order and endorsement are made part hereof and exhibited with said petition. This respondent further admits that said claim of the firm of A. D. Kelly & Co. was mostly for money owing to and advanced by said firm to said Junius W. Craig to aid and assist him in raising a cotton crop upon
618 the Yellow Bayou and Belleville plantations in said county for the year 1858; that said Craig had notes, bills, or bonds given to him for the purchase-money of lands sold, and that liens were reserved upon said lands to secure the payment of said notes; but she does not know whether any of said notes, bills, or bonds were placed in the hands of said firm by said Craig as collateral security for said monies or not, and they authorized to collect the same.

And she insists that if any such collateral securities were so placed in the hands of said firm by said "Craig" to secure the payment of said advances, that said securities were collateral and secondary to the lien which said firm had by virtue of the agreement made with said "Craig," as stated in said petition of Wm. H. Todds upon the cotton crop raised by said Craig as aforesaid in the year 1858 with monies advanced as aforesaid, and that said firm could not collect said collateral securities
619 until the lien upon the said crop had failed, and that upon the receipt of said crop, and it being sufficient to pay said indebtedness, the said firm of A. D. Kelly & Co. had no right to collect or even to retain the possession of said collateral securities; and she further insists that if said collateral securities had not been released by the receipt by said A. D. Kelly & Co. of said Craig's

cotton crop for the year 1858, as aforesaid, that the holding of said securities or the giving up the same by said firm, as stated in said petition of Wm. H. Todd's, could furnish no excuse and give no authority to said probate court to class said claim in the third class of claims, however gratifying said classification might be to said administrators and said claimants, said claim not being a judgment rendered against said Craig in his lifetime, and a lien upon his lands.

620 The respondent admits, as stated in said petition, that in the year 1858 said Junius W. Craig was largely engaged in the cultivation of cotton in said county of Chicot, and that the advances made and the credit given him by said firm greatly assisted him in said cultivation, and he was bound by promises and obligations to ship the same, when and as it should be prepared for market to the said firm for sale, that the said firm out of the proceeds might have repayment of the money as advanced as aforesaid, and that by the laws of Louisiana, when it should come to the hands of said firm in New Orleans, said firm would have a lien and preferance to the amount of such advances, as stated in said petition, and especially so when said Craig had agreed and obligated himself

621 when and before said advances were so made that said crop should be shipped to said firm for sale and to pay said advances, she admits that said Craig afterwards departed this life, and that letters of administration were granted in the said county upon his estate, but denies that that fact prevented said firm from applying the proceeds of said crop to the payment of their debt, as aforesaid, after said crop came to their hands, and were sold by them in compliance with the agreement so made with said Craig, as aforesaid, and states that if said —— saw proper to advance the proceeds of said crop to said administrators in future years with the view of getting future crops, to sell, instead of crediting said proceeds upon said claim, as they were in law and under the obligation of the oath to said claim bound to do, and also gave up said released collateral securities, it was their own voluntary act, of which neither the said firm nor the said

622 Todd, a subsequent assignee of said Frazier, of what might be due upon said claim some eight years afterwards without recourse has any right to complain, and she denies that said firm ever lost any opportunity of collecting what might be due them upon said claim by giving up said collateral securities, but on the contrary, said firm sold out all of the cotton crops of said plantation for the years 1858, 1859, and 1860, amounting to several thousands of bales, and if the classification of said claim in the third class by said probate court, and ordering it to be paid, had been regarded as legal and binding by the said firm and the said administrators, the firm could have paid themselves out of the first monies which came to their hands from the sale of the crops of 1859 and 1860 in preference to the other creditors of the fourth and fifth

623 classes. She admits that the cotton crops of said estates were used mostly in the payment of such debts as that have been paid (and not said collaterals), and states that said Todd received,

on his individual debt against the estate of some forty thousand dollars, twelve thousand on the 10th day of January, 1860, from said administrators, and five thousand on the 20th of October, 1860, from J. M. Craig, sole administrator, and that said A. D. Kelly & Co. did not see proper to collect any of their claim, as aforesaid, at least so far as can now be known the said A. D. Kelly & Co., both being dead, (except the fifty items on the debit side of said claim for two thousand three hundred dollars, which was also allowed as a separate claim and classed in the class and afterwards paid to said firm by said administrators), until the 18th of December, 1865, when said sum of $19,266.09 seems to have been paid, as aforesaid upon
624 said claim, notwithstanding said probate court had classed it in the third class, and ordered it to be paid, which is receipted upon the record above the assignment to said Todd, and which said Todd must have noticed, and notwithstanding said A. D. Kelly & Co. had the means of said estates from the sales of the crops of '59 and '60 in their own hands to pay with, which must also have been known to said Todd. This respondent admits that it was not to the interest of said estate to sell its lands, amounting [to] some thirty or forty thousand acres at the time and in the manner in which they were sold, nevertheless they were sold, upon the application of said Todd and others, without the solicitation of this respondent, by order of this court, in the year 1868, and said Todd became the purchaser of most of them, in a sort of wholesale way, at greatly below
625 their value, at the nominal sum of something near $100,000.00 (one hundred thousand dollars), embracing the valauable plantation of "Yellow Bayou" and "Bellevue," worth a hundred thousand dollars each ($100,000.00), and said Todd still retains the purchase-money for said lands and plantations, and has been and is using and cultivating said plantations at great deal profit, and is not paying the debts of said estate, but is manifestly seeking to appropriate the whole of said vast estate to his own use and benefit, and to the exclusion of the other creditors.

This respondent states and charges that said A. D. Kelly & Co. did receive the cotton crops raised for said "Yellow Bayou" and "Bellevue" plantations in the year 1858, and which was pledged by said J. W. Craig to repay the monies advanced to raise it by said firm, and upon which their said claims is founded, in fulfill-
626 ment of the agreement of the said "Craig," and that said crop was sold by said firm on and between the 25th of October, 1858, and the fourth day of January, 1859, and after paying said firm for supplies furnished said plantations and all of their numerous and various charges for different things, insurance commission, interest, &c., &c., charg-able upon said crop, there remained in the hands of said firm on the 7th February, 1859, the sum of $40,549.93 (forty thousand five hundred and forty-nine and $\frac{93}{100}$ dollars) in cash remaining from the proceeds of said crop sold up to the 4th January, 1859, and three hundred and five (305) bales of cotton then undisposed of.

That at the time said A. D. Kelly & Co., on behalf of said firm, on the 12th January, 1859. swore to said claim for forty-five thousand

six hundred and seven and $\frac{67}{100}$ ($45,607.76) against said
627 estate, and that it was entitled to no further credits, and was then due and demanded, said firm had in their hands in cash $41,408.58 (forty-one thousand four hundred and eight & $\frac{58}{100}$ dollars) in cash, the proceeds of the sale of said cotton, and three hundred and five (305) bales undisposed of from said crop of 1858, which appears from a copy of the account current of said firm rendered to said administrators on the 7th day of February, 1859, and filed by them in their first settlement with the probate court as "Voucher Z" and made part hereof, and will be exhibited herein as (X 1). That said $41,408.58 should have been credited upon said claim, and also the balance of the proceeds of said 305 bales of cotton, or enough of the same to pay it, when said claim was presented to said administrators for allowance on the 2d day of April, 1859, as aforesaid; and she avers that said money and proceeds of
628 said cotton crop of 1858 was fraudulently withheld by said firm and placed to the credit of, and advanced to, said administrators, when it should have been placed to the credit of said claim; and that the allowance of said claim by said administrators as aforesaid was fraudulent, and that the classification of said claim in the third class of claims — the probate court, on the 30th of April, 1859, was illegal and fraudulent, and done by collusion and fraud of the said administrators and said A. D. Kelly & Co.

This respondent further states that she had no notice of the classification of said claim in the third class, either or constructive; that it was presented to said administrators for allowance on the 2nd day of the April term of said probate court (commencing on the 25th day of April, 1859), and allowed by said administrators and
629 filed with the clerk of said court on that day, and classed by said court at that term on the 30th day of April, 1859, when, according to the laws [of] administration, said court had not the jurisdiction to class said claim before the next term after it was filed, which would have been in the month of July following; that not being a party to said cause or matter, and having no notice of the action of said court, she had no opportunity of appealing on behalf of herself and other creditors from the action and order of said court in classing said claim; that neither she nor the attorney knew of the classing of said claim in the third class of the said probate court, so illegally and fraudulently done as aforesaid, until after and from the exhibiting of the said petition of the said Wm. H. Todd in the cause praying to have said classification confirmed and
630 the other creditors of said estate excluded from its assets; and said Todd received from his liabilities on his bond in the cause in not paying said creditors their just proportion of said assets; that until the filing of said petition no attempt has ever been made to enforce the illegal classification of said claim as aforesaid; that within one year after said claim was classed other creditors of the fourth class were paid a part of their claims, the said Todd receiving some seven[teen] thousand dollars [$17,000.00] on his claim in the year 1860, and this respondent receiving eight [thousand dollars] ($8,000.00) on the 19th day of April, 1860, on her claim

against said estate, then amounting to twenty thousand seven hundred and fifty-four and $\frac{54}{100}$ ($20,754.54) dollars, and also four thousand [dollars] ($4,000.00) on the 2nd of January, 1861, on said claim by the draft of said administrators on said A. D. Kelly & Co., and that no credit appearing upon the said claim of A. D. Kelly & Co. until the 18th
631 of December, 1865, upon the record of said probate court as aforesaid, notwithstanding the same was placed in the third class and ordered to be paid on the 30th of April, 1859; this respondent further states that the fifth item on the debit side of said claim stated as acceptance due 4–7 Nov., 1858, $2,300.00, and allowed as a part of said claim, was also allowed by said administrators on an account stated on said acceptance attached for $2,300.00 as principal, and $85.36 as interest, in favor of said A. D. Kelly & Co., on the 3rd *third* day of May, 1859, and was filed with the clerk of the probate court on the 17th day of May, 1859, being one and the same term, and on that day classed by said court in the fourth class of claims against said estate, both of which claims are made part hereof, and copies of which will be exhibited herein and marked and numbered (X 2) and (X 3); that the fifth item in the first claim afore-
632 said, and the second allowance and claim aforesaid, are for one and the same indebtedness allowed by the adm'rs, and classed at the same term of the court in the third and fourth class, being one and the same debt, making two judgments for the same debt; that said second claim was on the 29th day of February, 1860, then amounting, principal and interest, to $2,541.75, paid in full by the administrators of said estate to said A. D. Kelly & Co., as appears from the account current of said administrators and voucher "85" thereof, filed with the probate court of said county May 14, 1860, which are made part hereof, and copy will be filed of each as (X 4) and (X 5), if required; that said second claim or judgment having been paid off as aforesaid, said first claim is entitled to an additional credit of said $2,300.00 as of the day of its allowance on the 26th of April, 1859, and which has not been credited upon said claim.
633 This respondent further states and charges that in the answer of Emma J. Wright and others to the creditors' bill of Wm. W. Frazier and others against them, brought to the April term, 1866, of this court in chancery, and the cross-bill *as* said Emma J. Wright and others against said A. D. Kelly & Co. and said Wm. H. Todd and others, filed in said cause on the 27th, 1866, of the month of June, it is not admitted that said claims of A. D. Kelly & Co. as due as stated in the bill; it is charged that said Jas. M. Craig had had in his possession since the death of said J. W. Craig a large amount of assets which he ought to have applied to the —— of the claims against said estate, and which to a certain extent they believe he did do; that said Jas. M. Craig in his various capacities of administration, co-administrator with Jno. R. Llewellyn and sole administrator under the compromise, has had the possession and control of the cotton crops of the estate of said Junius W. Craig for the years 1858,
634 1859, 1860, 1861, and of the rents and profits of the property in the city of Louisville, Kentucky, and in the city of Memphis for a part of that time, amounting to more than four hundred thousand

dollars; that said Jas. M. Craig, during all this time, has had possession of the bills receivable due to said estate, amounting to $121,659.15, as large proportion of which might — been, and probably had been collected, and that nearly, if not all, of the cotton for the years '58, '59, '60 & '61 was shipped to the house of said A. D. Kelly & Co., of New Orleans, the assignees of the said Wm. W. Frazier, and that said debts in said bill demanded, embracing the said claim of A. D. Kelly & Co., then assigned to said Wm. W. Frazier and since assigned to said Wm. H. Todd as (aforesaid), had been fully — off and discharged by the said John M. Craig, and that as to the claim of said Wm. W. Frazier, (being) the said claim of
635 A. D. Kelly & Co. then assigned to said Wm. W. Frazier, and since assigned to Wm. H. Todd as aforesaid, the said estate of Junius W. Craig did not own the same or any part thereof; that said Todd filed his separate answer to said bill on the 23d day of October, 1866, stating that he knew nothing about what amount of assets belonging to said estate came to the hands of said J. M. Craig as administrator, or with what fidelity said Craig had administered said assets; that he knew nothing about the quality of said cotton raised on said estate during years the mentioned in said X-bill, or what disposition was made of said cotton; that said Junius W. Craig was largely indebted to him; that his claim on the 27th of July, 1859, against said estate was allowed and classed against said
636 estate to the amount of $47,181.00, with ten per cent. interest thereon until paid, and denies that said debt had been paid, except the sum of $12,000.00 paid by the same administration on the 10th day of Jan., 1860, and $5,000.00 paid by said Jas. M. Craig, sole administrator, on the 20th of Oct., 1860, and that said sums of money had been accounted for by said administrators in their several settlements with the probate court of Chicot county, and that his receipts for said sums are now on file in said court as vouchers to said settlements, &c.

This respondent states that the account current of said J. M. Craig and said Craig and J. R. Llewellyn and said J. M. Craig, as administrator and administrators of said estate, show that the cotton crops raised upon said plantations for the years 1858, 1859, and 1860 were shipped to said firm of A. D. Kelly & Co., of New Orleans, and that the account current of said firm
637 with said J. M. Craig, as administrator of said estate, rendered on the 7th day of Feb'y, 1859, as aforesaid, and filed as voucher "Z" in the first settlement of said J. M. Craig, as such administrator, with said probate court, shows that the cotton crop raised upon said plantation in the year 1858, and pledged by the said Junius W. Craig for the payment of said claim of A. D. Kelly & Co. (assigned to said Wm. W. Frazier, and since assigned to said Wm. H. Todd), mentioned in said Wm. H. Todd's petition, came to the hands of said A. D. Kelly, and at the same time said A. D. Kelly to said claim on the 12th of January, 1859, there was a surplus of over $41,000.00 in cash, the proceeds of said crop, and some 305 bales of cotton undisposed of in the hands of said A. D. Kelly & Co., which should have been applied to the credit and payment

of said claim, and that said claim was illegally and fraudu-
638 lently allowed against said estate, and illegally and fraudulently classed in the third class of claims, as aforesaid. And this respondent states and charges that at the time said Wm. W. Frazier assigned said claim without recourse to said Wm. H. Todd on the 11th of July, 1867, said Wm. H. Todd, being also a large creditor of said estate in his own right at that time, must have known and did know said facts in connection with allowance and classification of said claim as aforesaid, and especially as it appeared from the record of said claim in said probate court, on which said credit is intended by said A. D. Kelly & Co., and said assignments made to said Frazier, and then to said Todd as aforesaid; that no payment had been made on said claim for more than six years after the same had been allowed by said administrators, and classed in
639 the third class by said probate court, and ordered to be paid, said credit being entered on the 18th day of December, 1865, as aforesaid, and notwithstanding the said Todd and A. D. Kelly & Co. and other creditors had received a large part of their claims classed in the fourth class some five years before that time.

This respondent states that there has been a continuous litigation in the probate court and in this court in connection with the administration and settlement of said estate of Junius W. Craig for more than eleven years that the same is still unsettled, and has been brought into the court for final administration and settlement and prays that the illegal and fraudulent classification in the third class of said claims *of said claims* of A. D. Kelly & Co. as assigned to said Wm. H. Todd may be set aside and *disarranged*, and said
640 claim be entirely re-justed and said allowance of said administration set aside, or placed on a common footing with claims of the fourth class, as may to the court seem just and equitable and that only so much of said claim be paid as may be found justly due, if any, after the same has been referred back to the receiver in the cause to be corrected and settled, and that this court may not grant the prayer of said Wm. Todd, to order said claim to be paid to the exclusion of other creditors of the 4th and 5th classes, and to release him from his liability on his bond as the purchaser of the lands of said estate.

This respondent further states that said William H. Todd is a very shrewd and experienced business man, and has been the owner and manager of a large estate in the city of Philadelphia and
641 elsewhere for many years; that he was formerly the partner of Silas Craig, the father of the said Junius W. Craig, dec'd., in said "Yellow Bayou" plantation, and having such a large claim against said estate must have been entirely familiar, either through himself or attorneys or administrators, with the entire management and manipulations of said estate by said A. D. Kelly & Co. and said administrators throughout the whole of said administration, and charges specially that before and at the time of the assignment of said A. D. Kelly & Co's. claim to him by said Wm. W. Frazier without recourse, he was fully advised of the illegal and fraudulent allow-

ance and classification of said claim, and that said assignment was made to him for collection or for little or no consideration.

This respondent further represents that owing to his great
642 wealth and business tact and management and commercial facilities the said Wm. H. Todd can command almost any amount of money he may desire, and there can be no good reason for his withholding the purchase-money for the lands of said estate and the assets of said estate from the other creditors of said estate, and not paying their just claims, except to use said money to the greater advantage of his own private gains and profits, and at the same time to have and enjoy the use and great profits of said plantation and lands, and this respondent prays that said Todd may be ordered to pay the claim against said estate, with all the interest accrued and accruing thereon, forthwith as soon as the said claims can be correctly ascertained and stated by the receiver in this cause, after the assets of said estate shall have been marshalled and a provocation and distribution of said assets ascertained; and
643 that said Todd may be charged with interest upon the monies due for said lands. This respondent further represents that if the allowance and classification of said claim of A. D. Kelly & Co. is the judgment of a court of general jurisdiction, as stated in said Todd's petition, and if the court should be of the opinion that sufficient facts do not appear to authorize it to overrule, set aside, and disregard said allowance and classification, upon the ground of collusion and fraud by and between the several parties interested in said claim, and the ground that the probate court had no jurisdiction to class said claim and enter said judgment at the term the same was done, she insists that said A. D. Kelly & Co. and the said Wm. W. Frazier and the said Wm. H. Todd have lost all special liens and benefits over other creditors of said estate from said
644 classification and judgment and order of payment by reason of the laches, neglect, and long delay of all of said parties in not enforcing said classification and judgment and order of payment at an earlier day, no steps having been taken by said A. D. Kelly & Co. to collect said claim until the 18th of December, 1865, as aforesaid, a period of nearly seven years after said allowance and classification and order of payment was made, and no steps taken to confirm and enforce said classification until the filing of said Todd's petition in the cause of M'ch 9th, 1869, a period of nearly ten years, and that, too, while said estate was, during that period, rapidly becoming insolvent, and creditors of the fourth class were being paid off, many of them in full, and most of them a part of
645 their claims; and that it is too late for the said Todd to seek now to enforce said classification and to acquire any special liens and preference in favor of said claim over creditors and claims of the fourth class and fifth class.

This respondent further represents and states that so badly has said estate been managed, wasted, and sacrificed that the remaining assets will probably not pay the creditors of the fourth class more than fifty cents on the dollar of their claims still unpaid, and should said illegal and fraudulent allowances and classification of said

claim of A. D. Kelly & Co. be pproved and confirmed, and said claim ordered to be paid in full to the exclusion of the creditors of the 4th and 5th classes, as prayed for by said Todd, there would be nothing left to said creditors, and it would work a great hard-
646 ship and injustice to said creditors in consequence of the laches, neglect, and delay of said A. D. Kelly & Co. and said W. W. Frazier and said W. H. Todd in not having said claim paid at an earlier day out of the assets in the hands of said A. D. Kelly & Co., as the creditors of said estate have not heretofore been paid *pro rata;* but many of the fourth class have been paid in full, and many only in part, and it would be impossible to get those who have been paid in full to refund a *pro rata*, they not having given any refunding bond, and said administrators having been charged by the probate court and being bankrupt; that if said claim and the allowance, classification, and order of payment aforesaid had
647 been legal and just and owing to said firm, and not fraudulent, they had ample remedy years ago in the probate court to enforce said order of payment.

This respondent further represents that the balance of her claim as executrix of the will of Hosea George, dec'd, against the estate of said Junius W. Craig, which claim was duly allowed and probated and classed in the 4th class of claims, was and amounted to the sum of sixteen thousand and ten $\frac{21}{100}$ dollars ($16,010.21), principal and interest, on the 1st August, 1867; that with a view of getting said debt paid and aiding the administration of said estate her attorney received on said Aug. 1st, 1867, from Emma J. Wright, then administering said estate as the executrix of the will of said Junius W. Craig, some eight (8) [notes] belonging to said estate, which were represented to her attorney as being good
648 and collective and secured by liens on lands in Phillips county, Arks., which were free from all other incumbrances for taxes or otherwise, which notes at that time, principal and interest, amounted to the sum of $13,470.54 for the purpose of collecting said notes and applying so much thereof as might be collected to the payment of so much of this respondent's claim against said estate, copies of which notes are attached to this respondent's petition in this cause and made part of this answer; that her attorneys shortly ascertained that one of said notes, No. 8th, the balance due on the same, principal and interest being $426.75, was entirely worthless, which note is now in the possession of said attorney, H. Hayes, and ready to be turned over to the receiver in this
649 cause; that the rest of said notes were placed by her said attorney in the hands of Tappan and Honor, attorneys of Helena, Arkansas, with a view of having them collected as soon as possible, if they could be collected at all, and that suit has been brought upon said notes, and decrees rendered upon the most, if not all, of them, and she cannot now state how many or how much of them can be collected, but will ascertain the same as soon as possible, and will report the same to the receiver in this cause as soon as ascertained; your petitioner has been informed that the most of the lands upon which liens were received to secure the payment of said

notes had been sold for taxes, and were free from incumbrances, as represented, and are subject to overflow and comparitively
650 worthless, and that but a small part of said notes can be collected.

This respondent therefore prays that said claim of H. D. Kelly & Co., assigned to W. W. Frazier, and then assigned to Wm. H. Todd, may not be paid to the exclusion of the claims of the 4th and 5th classes, but that the allowances and classification of said claim may be decreed to be illegal, fraudulent, and null and void, and said Todd and Frazier and representatives of A. D. Kelly & Co.'s precluded from receiving any further portion of the assets of said estate in payment of the same; that upon the marshalling of the assets of the estate in the court in this cause, she, and the other creditors of the 4th and 5th classes, may receive their due, equitable proportions of said assets in payment of their respective claims against said estate of J. W. Craig, and for other and further relief, &c.,
651 and that said Wm. H. Todd may answer, under oath, the interrogatories annexed to this answer, &c., and that said Todd may be ordered to turn over and pay the assets of said estate now in his hands to the receiver in this cause, to be applied to the payment of the just debts against said estate.

A. C. GEORGE, *Executrix*,
By H. HAYS, *Sol.*

STATE OF ARKANSAS, *County of Chicot:*

H. Hays states that Mrs. A. C. George, the defendant and respondent, and named in the above answer, resides in Ashley county, Ark., and that he hasn't had time to get her affidavit to the same, and that he believes the matters and things therein stated are true, and that said George would so state under oath if she had the opportunity.

Sworn to before me, clerk of said county and court, this April 18th, 1870.

H. HAYS, *Sol.*
H. W. GRAVES, *Clerk.*

652 Interrogatories annexed to the foregoing answer, and propounded to Wm. H. Todd, to be answered under oath, to wit:

1st. Was or not the claims mentioned in your petition in this cause and allowed in favor of A. D. Kelly & Co. against the estate of J. W. Craig for $45,607.76, and the balance due upon it assigned to W. W. Frazier (and then assigned to you) for collection and for the benefit of yourself, and A. D. Kelly & Co., and Jas. M. Craig, or either two of said persons; if yea, for the benefit of which two or more of said persons?

2nd. Have you any interest in said claim except for collection, and what is that interest?

3rd. Did Jas. M. Craig (or any other person), actually pay in money to said A. D. Kelly & Co. the sum of $19,266.09 en-
653 dorsed as a credit upon the record of the probate court of

Chicot Co., on the 18th Dec., 1865; if not, did A. D. Kelly & Co. owe said Craig said sum, and if neither, by whom and when, and where was said sum paid?

4th. Did you or not pay to said W. W. Frazier any consideration for making said assignment of what might be owing upon said claim to you without recourse upon him; if yea, what and how much was the consideration for making said assignment, and when was it paid, or is it to be paid?

5th. Was not more of said claim paid to said A. D. Kelly & Co., than appears to have been credited upon it, or paid Frazier or to yourself; if yea, when, and how much?

6th. Did you not purchase said claim from said W. W. Frazier for a sum of money or other consideration depending upon
654 your ability to collect said claim, in whole or in part? If yea, state the considerations and terms of said purchase.

7th. Do you know of Emma J. Wright having filed a bill in this court against yourself and others to set aside said claim upon the ground of usury, fraud, or illegality or payment, and her dismissing said bill for a consideration of $10,000.00, or any other consideration? If yea, state when said bill was filed, and who paid her that consideration, and all you know about the transaction.

A. C. GEORGE, *Ex.*,
By H. HAYS, *Sol.*

Filed in open court the 19th day of April, A. D. 1870.
H. W. GRAVES, *Clerk.*
HAYS, *At'r'y.*

655 *Mr. Joshua M. Craig, Administrator of Estate of Junius W. Craig, deceased, in Ac. with A. D. Kelly & Co.*

Interest Acc't at 8 per cent. per annum to 7th Feb'y, 1859.

1858.						
Nov.	1.	To insurance of frame building, Bellevue plantation, 3 mo. from date	$5,000 00			
"	"	do. furniture, 3 mo. from date	5,000 00			
			10,000 00 @ p. c.		100 00	
"	10.	" Faney & Co., for rope, to replace iron hoops on 92 b. c., Bellevue, sold Oct. 20th, 1858			44 16	
"	17.	" invoice of bagging & rope rendered			404 00	8 57
Dec.	1.	" cash paid steamer Ingomar, fr't on same			22 00	
"	11.	" insurance on Bellevue, &c., gin-house, &c., 1 year from date	$15,000 00			
"	"	do. Yellow Bayou	3,000 00			
			$18,000 00		540 00	
"	"	invoice of pork rendered, Bellevue	$891 33			
"	"	" " " " Yellow Bayou,	369 81			
					1,261 14	
1859.						
Jan.	3.	" cash p'd st'm'r H. R. W. Hill, fr't on sundries			43 50	
"	"	" " " " " " " "			26 25	20 07
"	7.	" " " dr'ft, favor W. H. Hicks, for painting			105 00	
"	17.	" " " A. Thomas, State & Co., for taxes, Phillips Co.			618 65	

1859.					
Jan.	21.	To insurance, dw'ing-house, &c., "Bellevue pla"	$12,000 00		
Feb'y	7.	" balance of interest ac. to cr. side, @ 2 per cent.		240 00	
"	" "	" transferred to cr. of J. M. Craig		----	769 47
"	" "	" J. R. Llewellyn, adm'r of est. J. W. Craig, dec'd		40,549 93	
				43,954 63	798 11

CREDITS.

1858.		"Yellow Bayou and Bellevue:			
Oct.	25.	By net proc. of 120 b. c., per sales rendered	$5,694 89		327 43
"	" "	" net proc. of 200 b. c., per sales rendered	8,358 09	14,052 98	
656	Nov.	16. By net proc. of 130 b. c., per sales rendered	$5,905 57		
	" "	" net proc. of 300 b. c., per sales rendered	10,981 87	16,887 64	
"	24.	" net proc. of 50 b. c., per sales rendered		1,954 68	343 35
		Am'ts bro't forward		32,895 00	670 78
Dec.	4.	By net proc. of 100 b. c., per sales rendered	$3,891 39		
"	" "	" net proc. of 75 b. c., per sales rendered	3,307 42	7,198 81	103 97
1859.					
Jan.	4	By net proc. of 25 b. c., per sales rendered	1,110 40		
"	" "	" net proc. of 49 b. c., per sales rendered	1,980 65	3,091 05	23 36
Feb'y	7.	" bal. interest ac. to date		769 47	
		350 bales, "Yellow Bayou;" 699 bales, "Bellevue"		43,954 63	798 11

77 bales Bellevue on hand.
12 " motes " " "
204 " Yellow Bayou on hand.
2 " motes " " "

New Orleans, Feb'y 7, '59.

A. D. KELLY & CO,
Per J. GURNEY.

For ac. Messr. J. M. Craig, J. R. Llewellyn, joint administrators of J. W. Craig, dec'd.

Bales on hand Feb'y 7, 1859	291
" " " of motes Feb'y 7, 1859	14
	305

Exhibit (X 2).

Junius W. Craig, Esq., in Ac. Current with A. D. Kelly & Co.

Interest Ac. at 8 per cent. per annum to 7th Sept. 1858.

1858.						
May 19.	To bal., per ac. rendered, due A. D. K. & Co., say, cash			$3,578 28		
657	To outstanding notes due—					
	10—13 Jan., 1859		$3,912 40			
	10—13 " "		5,000 00			
	1—4 Feb'y, "		6,000 00			
				14,912 40		
	And acceptance due—					
	4—7 Nov., 1858		$2,300 00			
	25—28 do. do.		1,000 00			
	27—30 " "		2,975 00			
	27—30 " "		3,000 00			
	27—30 " "		3,000 00			
	27—30 " "		2,748 14			
	1—4 Dec., "		1,303 00			
	4—7 " "		1,330 43			
	12—15 " "		809 52			
	16—19 " "		600 00			
	1—4 Jan'y, 1859		1,859 76			
	1—4 April, "		1,344 29			
				22,270 14		
				37,182 54		
	Cash item above			3,578 28		
					40,760 82	
" "	To coms. 2½ p. c. for ac'pt. above, say on $22,270.14				556 75	
" "	" invoice of groceries rendered you				225 27	
" 21.	cash p'd fr't favor of A. L. Shotwell & Sons				250 00	13 57
" 25.	" " R. M. Moore				80 00	
June 2.	your note, our favor, due 15—18 Dec., 1858		$3,804 39			
" "	coms. 2½ p. c. for endorsing same		95 11			
					3,899 50	
" "	inv. of ice rend. you, $10.00				10 00	
" 8.	cash p'd "st'r Ingomar," fr't on sund.		24 61			
" "	" " " " " "		9 50			
" "	" draft, our favor, " " " "		150 00			
					184 11	
" 18.	" invoice ice sent you				10 00	19 89
" 25.	" " bagging, &c.				920 48	
	Carried over				46,896 93	33 05
658	Am'ts bro't forward				46,896 93	33 55
1858.						
June 22.	To our accept. your draft in favor of Jno. Hebron, due 13—16 Sept., 1858				200 00	
" 23.	cash p'd your accept. of N. Craig draft				1,627 80	
" 28.	" st'm'r Messenger, fr't on ice to plant				6 00	
" 30.	inv. of ice rend. you				10 00	
July 13.	cash p'd st'm'r Messenger, fr't on same				3 00	
" 17.	inv. ice sent you				10 00	
" 23.	ale & ice				26 65	28 16
" 28.	"		$10 00			
" "	cash paid st'm'r Messenger, fr't on ice		6 00			
					16 00	
Aug. 4.	" " R. W. Adams, fr't on ice		4 00		4 00	
" "	inv. ice rendered you				10 00	
" 9.	cash p'd st'm'r Messenger for box cigars		$5 00			
" "	" " " fr't on ice		3 00			
					8 00	

1858.
Aug. 11. To our ac'p't of y'r dr'ft favor D. McComb & Co., due 30—2 day Feb'y, 1859 $100.13, int 2 ---------- 102 13
do. do. ---------- 353 00
455 13
" com. 2½ p. c. for ac'pt. ---------- 11 38
" invoice ice rendered you ---------- 10 00
" 18. cash p'd st'm'r R. W. Powell, for freight on same 2 50
" invoice ice rend. you ---------- 10 00
" 24. cash p'd st'm'r Messenger, fr't on same ---------- 3 00
" 27. " " R. W. Powell " " ---------- 2 50 38
Sept. 1. invoice of groceries, &c., rend. you ---------- 204 79
" 3. cash p'd stm'r Ben. Franklin, fr't on ice ---------- 3 00
" 4. inv. of ice rend. you ---------- 20 00
" 7. bal. int. acc't to date ---------- 55 36
49,596 04 62 09

659

1858.
Sept. 7. To bal. bro't down, due A. D. Kelly & Co., say cash ---------- $4,165 70
Outstanding:
Four notes, due—
" " 15—8 Dec., '58 ---------- $3,804 39
" " 10—13 Jan., '59 ---------- 3,912 40
" " 10—13 " " ---------- 5,000 00
" " 1—4 Feb'y, " ---------- 6,000 00
$18,716 79
Bro't fo'w'd:
1858.
Sep. 7. Cash item ---------- $4,165 70
Notes ---------- $18,716 79
Acceptance due—
" " 4—7 Nov., '58 ---------- 2,300 00
" 25—28 " ---------- 1,000 00
" 27—30 " ---------- 3,000 00
" 27—30 " ---------- 2,975 00
" 27—30 " ---------- 3,000 00
" 27—30 " ---------- 2,748 14
" 1—4 Dec., " ---------- 1,303 00
" 4—7 " " ---------- 1,330 43
" 12—15 " " ---------- 809 52
" 16—11 " " ---------- 600 00
" 1—4 Jan., 1859 ---------- 1,859 76
" 30—2 Feb., " ---------- 102 13
" 30—2 " " ---------- 353 00
" 1—4 April, " ---------- 1,344 29
22,725 27 41,442 06
45,607 76
Commission ---------- 2 00

E. & O. E.
New Orleans, Sept., 7, 1858.

660 CREDITS.

1858.
Jan. 2. By proc'd of your note, our favor, due 15—18 Dec., 1858 ---------- 3,804 39
" " off 214 days, 10 per cent. disc't, from 19 May, 1858 ---------- 226 11
3,578 28
" 3. am't hand. Mr. Kemper by you, in Ark. ---------- 60 00
28. Jno. Williams & Co., ac'p't collected ---------- 350 00 6 73
Sept. 9. balance of int. acc't to dr. side ---------- 55 36
" " " due carried down ---------- 45,607 76
49,596 04 62 09

STATE OF LOUISIANA, *City of New Orleans:*

I, Alexander D. Kelly, of the commercial firm of A. D. Kelly & Co., of the city of New Orleans and State of Louisiana aforesaid, do solemnly swear that nothing has been paid or delivered to the satisfaction of the above demand except what is credited thereon, and that the sum of $45,607.76 above demanded is justly due said firm, so help me God.

A. D. KELLY.

Sworn to and subscribed before me, in New Orleans, the 12th day of January, 1859.

In witness whereof, I, Daniel S. Ricardo, a commissioner
661 for the State of Arkansas, in and for the State of Louisiana, have hereunto set my hand and seal, at New Orleans, 12th January, 1859.

[L. S.] D. S. RICARDO,
Commissioner for Arkansas.

A. D. KELLY,
Per J. GORNEY.

(Endorsed:) Presented to us and allowed this 26th day of April, 1859. J. M. Craig, J. Llewellyn, administrators. Filed April 26th, 1859. Attest: B. F. Stephenson, clerk.

For reasons set forth *set forth* in the petition of the administrators this day filed and sworn to, this claim is classed in the third class of claims,

April 30, 1859. A. H. DAVIES,
Judge of Probate.

662 (Copy.)

EXHIBIT (X 3).

$2,300.00. COLUMBIA, ARKANSAS, *February 4th*, 1858.

Nine months after date I promise to pay to the order of Sanford C. Faulkner, at the counting-house of A. D. Kelly & Co., at New Orleans, twenty-three hundred dollars, for value received, with interest at 8 per cent. per annum from maturity until paid.

JUNIUS W. CRAIG.

B'k due 4–7, Nov., 1858.

S. C. Faulkner, (endorser.)

Estate Junius W. Craig to A. D. Kelly & Co., Dr.

For Junius W. Craig, note favor of and endorsed by Sanford C. Faulkner, due 4–7th Nov., 1858, and (167) days	$2,300 00
Interest to date, at 8 per cent.	85 36
Due A. D. Kelly & Co. cash to date	$2,385 36

New Orleans, 23 April, 1857.

Commission fees, $2.00

663 STATE OF LOUISIANA, *City of New Orleans:*

We, Alexander D. Kelly and George A. D. Kemper, composing the firm of A. D. Kelly & Co., do solemnly swear that the annexed account against the estate of J. W. Craig, dec'd, is justly due, and that nothing has been paid or delivered toward the satisfaction of same, except what is mentioned and credited thereon, and that the sum demanded, to wit, twenty-three hundred and eighty-five dollars and $\frac{36}{100}$ is justly due, so help me God.

A. D. KELLY.
G. A. D. KEMPER.

Sworn to and subscribed before me, Dan S. Ricardo, a commissioner for the State of Arkansas, in and for the State of Louisiana, at New Orleans, the 23d day of April, A. D. 1859.

[SEAL.] D. S. RICARDO,
Com. of Arks.

664 Endorsed: Presented to and allowed by us, this 3rd day of May, 1859. J. M. Craig, J. R. Llewellyn, adm'rs. Filed May 17th, 1859. Attest: B. F. Stephenson, cl'k. Classed in the fourth class of claims. May 17, 1859. Davies, as judge.

At the April term, 1870, of the Chicot circuit court, in chancery, on the 19th day of April, 1870, a day of said term of said court, among others, the following proceedings were had, viz:

WM. H. TODD *et al.*
vs. } 82.
EMMA J. WRIGHT *et al.*

665 Now, on this day, comes Altona C. George, executrix of the will of Hosea George, deceased, by H. Hays, her attorney, and files her motion and petition in this cause, stating and showing that the claim in her favor against the estate of Junius W. Craig, as well as the claim in favor of A. D. Kelly & Co., assigned to W. W. Frazier against said estate, had not been correctly stated and reported by the receiver in this cause at a former term of this court under a mistake and order of said receiver, and the same being submitted to the court, and the counsel of said Wm. H. Todd consenting, it is ordered that the two claims aforesaid be referred back to the receiver in this cause, and that the same be re-examined, corrected, and restated by him up to some other day, and that he report the correct amount of said claims at the next term of this court.

666 *Petition of A. C. George.*

In the Circuit Court of the County of Chicot, in the State of Arkansas. In Chancery.

In the suit of WILLIAM H. TODD, ALEXANDER D. KELLY, GEORGE A. D. KEMPER, JOSEPH S. WOOLFOLK, and others, Creditors of the Estate of Junius W. Craig, Dec'd.

v.

EMMA J. WRIGHT, Executrix of the last Will and Testament of Junius W. Craig, Deceased, and the heirs-at-law of the same, and others.

The petition of Altona C. George, executrix of the last will of Hosea George, deceased, one of the creditors of Junius W. Craig, deceased, and one of the complainants in the above-entitled cause, complaining, represents:

667 That the testator, Hosea George, on the 23rd December, 1858, held and owned a claim then due, and founded on a promissory note, against the estate of said Junius W. Craig for the sum of $18,326.33, and drawing ten per cent. per annum interest from that date until paid; that said claim was duly allowed by the administrators of the estate of said Junius W. Craig; and on the 31st October, 1869, was duly classed by the probate court of said county in the 4th class of claims against said estate of Craig, a copy of which order is made part hereof and will be filed herewith, Exhibit (X, 21).

668 That said claim, principal and interest, on the 19th of April, 1860, amounted to the sum of $20,754.54; that on said day the administrators of the estate of said J. W. Craig paid to your petitioner the sum of $8,100.00 on account of and in satisfaction of so much of said claim, leaving the balance of said claim then due amounting to the sum of $12,754.54.

That the balance of said claim, principal and interest, on the 2nd January, 1861, amounted to the sum of $13,654.48; that on said last-mentioned day said administrators paid to your petitioner the further sum of $4,000.00 on account of and in satisfaction of so much of said claim, leaving the balance of said claim then due on 2nd Jan., 1861, amounting to the sum of $9,654.40, and drawing ten per cent. per annum interest as aforesaid.

669 That the balance of said claim, principal and interest, on the first day of August, 1867, then due, amounted to the sum of $16,010.21.

That on the said 1st day of August, 1867, Emma J. Wright, then acting as the executrix of the will of said Junius W. Craig, turned over to your petitioner's att'y, H. Hays, certain assets, consisting of notes on several parties, and belonging to the estate of said J. W. Craig, a schedule of which notes is hereto attached and made a part hereof, marked (X 1), for the purpose of applying said notes, or so much thereof as might be collected, to the payment of so much of your petitioner's debt against said estate, then amounting to the sum of $16,010.21, as aforesaid, and then representing that said notes

were good and secured by liens upon lands in Phillips county,
670 Ark., which lands were free from all the other incumbrances whatever, for taxes or otherwise; that thereupon your petitioner's attorney receipted to said Emma J. Wright for said notes, with the understanding and for the purpose of applying said notes to the payment of your petitioner's claim, as aforesaid, which notes amounted, principal and interest, at that time to the sum of $13,470.44, leaving the balance of said claim on the 1st of August, 1867, if said notes had been good and collectable, as they were represented to be, the sum of $2,539.72, or the real amount due on said claim on the 1st Aug., 1867, as aforesaid, instead of the mistaken and erroneous sum of $2,362.39, as stated by Johnson Chapman, Esq., a receiver heretofore appointed in this cause, and who
671 departed this life before he returned his report into court, but which report was returned by Chas. W. Fry, his successor, and that of the balance due on the notes of "J. C. Johnston" and "J. C. Johnson, Jr.," for the sum of $666.33, to wit, principal and interest, on 1st Aug., '67, being $426.71, was at that time, and is now, entirely worthless and uncollectable, and not secured by any lien on lands, and was embraced in the receipt aforesaid and made part of said sum of $13,470.54, aforesaid, placed to the credit of said estate of J. W. Craig, as aforesaid, by mistake and error of said receiver, which note is in the hands of your petitioner's attorney, subject to the order of the court; that after deducting the amount of the principal and interest due on said note 1st Aug., 1867. $426.71, from the amount stated in said receipt, the real amount due to your petitioner on her claim, as aforesaid, on the 1st Aug., 1867, should
672 have been stated by J. C. Chapman, receiver, as aforesaid, in the sum of $2,966.43, instead of the mistaken sum of $2,362.39, of the rest of said notes had been good and collectible, as represented; that the rest of the notes mentioned in the receipt and schedule aforesaid were placed in the hands of Messrs. Tappan & Hornor, attorneys, at Helena, for the purpose of bringing suit upon them and collecting the same, if practicable; that suits were brought upon said notes, and decrees rendered upon the same in the Phillips circuit court, but your petitioner cannot now state how much has been collected upon said decree, and how much is not collectible, but will do so as soon as the same can be ascertained, and will furnish the receiver in this cause with said sums and amounts.

673 Your petitioner further represents, on behalf of herself and other creditors of said estate of Junius W. Craig, that on the 26th day of April, 1869, a claim was allowed by the administrators of said estate of Junius W. Craig in favor of A. D. Kelly Co., of the city of New Orleans, to the amount and for the sum of $45,607.76, which claim was founded on an open merchant's account, running from May the 19th, 1858, to Sept. 7th, 1858, and verified by the affidavit of A. D. Kelly Jan. 12th, 1859, and at the April term of the probate court of said county, begun on the 25th day of April, 1869, was, on the 30th day of April, 1869, fraudulently and erroneously classed in the third class of claims against said estate.

That the fifth item on the debit side of said account, and desig-

nated as "acceptance due 4—7 Nov., 1858, $2,300.00," was a part of said sum of $45,607.76, and bearing interest with the rest of
674 said accounts, a copy of said account and order of probate court is made part hereof, and will be filed herein, marked and numbered (X 3).

That on the 3rd day of May, 1859, and at the same term of the court, another claim was allowed by said administrators against said estate and in favor of A. D. Kelly & Co., for the sum of $2,385.36 ($2,300.00 principal, and $85.36 interest), which claim was founded upon account stated of the identical acceptance mentioned in the fifth item of the claim first aforesaid, with the acceptance attached thereto, which is a note of Junius W. Craig, payable to the order of Sanford C. Faulkner, at the counting house of A. D. Kelly & Co., in New Orleans, on the 4th and 7th November, 1858, with interest at 8 percent per annum from maturity until paid, and endorsed
675 "S. C. Faulkner," which claim was on the 17th May, 1859, and at the same term of the court, by the probate court of said county, classed in fourth class of claims against said estate, a copy of which claim and order is made part hereof, and will be filed and [marked] Exhibit (X 4); that the fifth item in the claim first aforesaid, and the second claim and allowance aforesaid, are for one and the same indebtedness, and these are two judgments for the same debt.

That said second claim or judgment was on the 29th Feb'y, 1860, then amounting, principal and interest, to the sum of $2,541.75, paid in full by the administrators of said estate, J. W. Craig and J. R. Llewellyn, to said A. D. Kelly & Co., as appears from the
676 account current of said administrators and Voucher "85" thereof, filed with the probate court of said county May the 14th, 1860, which is made part hereof, and a copy will be filed as Exhibit (X 5).

That said second claim or judgment having been paid off and satisfied, said first claim or judgment is entitled to a credit for said item fifth in the same for said sum of $2,300.00, as of the day of its allowance, which would reduce the amount due on said first claim on the 26th day of April, 1859, (the day of its allowance), from $45,607.76 to $43,307.76, true amount of said claim, *bona fide* and not fraudulent.

That the amount due on said claim of $43,307.76, so far as the same appears from the records of the probate court, on the 1st
677 January, 1866, with interest at 6 per cent. from the 26th April, 1859, (the day of its allowance and probate), was the sum of $60,666.63; that on the 18th of December, 1865, as of the 1st January, 1866, the said A. D. Kelly & Co., on account of said claim, receipted upon the records of said probate court the sum of $19,266.09, leaving the balance due upon said claim on said 1st day January, 1866, as appears from said records, the sum of $41,400.54; that on the 18th day of December, 1865, twenty thousand dollars of said claim, and again such balance as might be due upon it, were assigned of record by said A. D. Kelly & Co. in liquidation to William W. Frazier; that on the 11th July, 1867, said W. W. Frazier
678 assigned without recourse said claim to William H. Todd; that

at a former term of this court Johnson Chapman, Esq., was appointed a receiver in this cause, and, among other things, to state the several amounts of the claims of the creditors against said estate of James W. Craig; that said receiver stated said claim of A. D. Kelly & Co. in the name of William H. Todd, assignee, on the 16th March, 1868, at the sum of $51,323.58, under a mistake and error, and not taking into account said sum of $2,300.00, which should have been credited upon said claim, as of the day of its allowance, when the amount of said claim on said 16th March, 1868, if said claim were *bona fide* and not fraudulent, and as appears from said records, should have been stated at the sum of
679 $46,886.10, being the principal and interest at that date; that said Johnson Chapman departed this life before he returned and filed his report in court, or he might have discovered and corrected said error; and that Chas. W. Fry, Esq., was appointed said Chapman's successor as receiver in this cause, and is still acting as such receiver, and returned into court said Chapman's statement, said debts not being apprised of the mistake and errors existing tn the same.

Your petitioner represents that said estate is unsettled and pending in this court for settlement, and that no one can be prejudiced by having said claim of A. C. George, executrix, &c., and
680 William H. Todd correctly taken and stated, but that great hardship and injustice will accrue if said claims are not correctly stated.

Your petitioner, therefore, prays that said claims may be referred back to said Chas. W. Fry, receiver, to examine and restate the same up to some even day, and to report the same as soon as practicable to this court, and for other and further relief.

A. C. GEORGE, *Ex.*,
By H. HAYS, *Sol.*

STATE OF ARKANSAS, *County of Chicot:*

H. Hays states that A. C. George, the petitioner, lives in Ashley county, and he has had no opportunity of getting her verification to the same, and that he believes the matters and things therein stated to be true.
681

H. HAYS.

Subscribed and sworn to before me, this April 19, 1870.

H. W. GRAVES, *Clk.*

Copy of Notes received by H. Hays, Att'y for Mrs. A. C. George, Ex., &c., Aug. 1, 1867, of Miss Emma J. Wright, Ex'x, &c., to be applied to the Debt of said George.

1st.

$4,000. LOUISVILLE, KY., *Aug.* 10, 1857.

Five years after date, value received in purchase of land, we jointly and severally promise to pay Junius W. Craig, or order, four thou-

sand dollars, bearing six per centum per annum interest from this date, as witness our hands and seals.

J. C. JOHNSON. [SEAL.]
J. C. JOHNSON, JR. [SEAL.]

Witness:
GEO. HANCOCK.

B | C due 10–13 Aug., 1862.
(Endorsed:) J. W. Craig.

682 2nd.

$1,085.75.

Four years after date for value received I promise to pay L. P. Craig, or order, one thousand and eighty-five dollars seventy-five cents, 1,085.75, to bear 8 per cent. interest if not paid at maturity. Scott Co., Ky., May 30th, 1855.

J. STODDARD JOHNSTON.

B | C due 30–2, June, 1859.
Endorsed: J. W. Craig.

3rd.

$600.00.

On the first day of January, 1860, I promise to pay James W. Craig six hundred dollars, value received, Dec. 17, 1856.

GEO. W. JOHNSTON.

B | C due 1–4, Jan. 1860.
Endorsed: J. W. Craig.

4th.

$216.

683 On the first day of June, 1859, I promise to pay Leland P. Craig two hundred and sixteen dollars, value received, with interest at the rate of 8 per cent. per annum from maturity till paid.

GEORGE W. JOHNSON.

B | C due 1–4, June, 1859.
Endorsed: J. W. Craig.

5th.

$216.

On the first day of June, 1860, I promise to pay Leland P. Craig two hundred and sixteen dollars, value received, with interest at the rate of 8 per cent. per annum from maturity till paid.

GEORGE W. JOHNSON.

B | C due 1–4, June, 1860.
Endorsed: J. W. Craig.

684 6th.

$360. HELENA, ARK., *Dec.* 12, 1853.

On or before the first day of January, 1859, I promise to pay Silas Craig and John A. Craig, or their order, three hundred and sixty dollars, for value received, with interest from date.

JNO. PRESTON, JR.

B | C due 1–4, Jan., 1859.
Endorsed: J. W. Craig.

7th.

$1,792. NEW ORLEANS, *Feb'y* 23, 1858.

On the 12th of August, eighteen hundred and sixty-two, value received, in purchase of land, I promise to pay to the order of James C. Johnston, Sr. and Jr., seventeen hundred and ninety-two
685 dollars, with six per cent. per annum interest from the 20th Feb'y, 1868, until paid, negotiable and payable at Bank of Kentucky, in Louisville, Kentucky, as witness my hand and seal.

C. A. MOORE. [SEAL.]

B | C due 10–13, Aug., 1862.
Endorsed: J. C. Johnston, J. C. Johnson, Jr.

8th.

$666.33. LOUISVILLE, KY., *Oct.* 1*st*, 1857.

Three months after date we, Jas. C. Johnston, as principal, and Jas. C. Johnston, Jr., as sec'ty, promise to pay James W. Craig, or order, six hundred and sixty-six dollars and 83 cts., for value received.

J. C. JOHNSTON.
J. C. JOHNSTON, JR.

Endorsed: Feb'y 26, 1858. Rec'd on ac. of the within two hundred dollars.

Endorsed: Returned to Capt. Fry, receiver.

686 Each of the above notes is also endorsed:

"Pay to the order of Altona C. George, executrix of the will of Hosea George, deceased.

Aug. 1, 1867. EMMA J. WRIGHT,
Executrix of the will of J. W. Craig, dec'd."

(Exhibit X 1,) referred to in petition.

NOTE.—The 8th above note is in the hands of H. Hays, petitioner's attorney, ready to be delivered to receiver.

Copy.

$666.33. LOUISVILLE, KY., *Oct.* 1*st*, 1857.

Three months after date we, Jas. C. Johnston, as principal, and Jas. C. Johnson, Jr., as sec'ty, promise to pay Junius W. Craig, or order, six hundred and sixty-six dollars and 33 cts., for value received.

J. C. JOHNSTON.
J. C. JOHNSTON, JR.

687 No. 212.

Feb. 26, '58. Rec'd on ac. of the within four hundred dollars.

Pay to the order of Altona C. George, executrix of the will of Hosea George, dec'd.

Aug. 1st, 1867. EMMA J. WRIGHT,
Executrix of the Will of J. W. Craig.

Petition of A. C. George, Ex. & Re.

WILLIAM H. TODD
v.
EMMA J. WRIGHT *et al.* } No. 82. In Chancery.

Filed in open court, this 19th day of April, 1870.
H. W. GRAVES, *Clerk.*
HAYS, *Sol.*

688 At the April term, 1870, of the Chicot circuit court, in chancery, on the 19th day of April, 1870, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG, Dec'd,
vs.
EMMA J. WRIGHT *et al.* } 82.

This day comes C. W. Fry, heretofore appointed receiver herein in this cause by this court, and files his report, setting forth that he cannot at this time make a full statement of the assets of the estate of said J. W. Craig, and asks further time in which to complete his exhibit of such assets.

689 STATE OF ARKANSAS, *County of Chicot:*

In the Chicot Circuit Court, on the Chancery side thereof. April Term, 1870.

CREDITORS OF J. W. CRAIG, dec'd,
v.
EMMA J. WRIGHT *et al.* } 82.

To the Hon. H. B. Moore, judge of said court:

The undersigned, receiver of the est. of J. W. Craig, dec'd, who was directed by order of this court, at the October term, 1869, to collect the assets of said estate and make report of the condition of the same, respectfully reports that he cannot now make a full
690 statement of said assets, and asks further time in which to do so.

CHARLES W. FRY, *Receiver, &c.*

Endorsed: Filed in open court, this 19th day of April, 1870. H. W. Graves, clerk.

At the April term, 1870, of the Chicot circuit court, in chancery, on the 20th day of April. 1870, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF THE ESTATE OF JUNIUS W. CRAIG
v.
EMMA J. WRIGHT and others. } 82. In Equity.

The said William H. Todd comes and asks that it be ordered that he have leave to answer the interrogatories appended to the

answer of Atona C. George, administratrix, to his petition in
691 this suit, at the next term of this court; to which no objection being made, it is so ordered.

At the April term, 1870, of the Chicot circuit court, in chancery, on the 20th day of April, 1870, a day of said term of said court, among others, the following proceedings were had, viz:

THE CREDITORS OF THE ESTATE OF JUNIUS W. CRAIG, deceased,
v.
EMMA J. WRIGHT, as the Executrix of the Will of Junius W. Craig, and others. } 82.

The complainants come, and the order of publication heretofore made herein against Talliferes S. Craig never having been published, and he being a non-resident of the State, it is ordered that
692 he be named by one publication of this order in the Arkansas Republican, at Little Rock, that there is a suit for the sale of the land, and marshalling and distribution of the assets — estate of Junius W. Craig, and that unless he appears before the court here by the third day of the next term thereof, to be held at Lake Village, in Chicot county, on the third Monday after the fourth Monday of September, 1870, and the demurres pleads or answers to the bill, it will be taken as confessed against him.

At the October term, 1870, of the Chicot circuit court, in chancery, on the 18th day of October, 1870, a day of said term of
693 said court, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG
v.
EMMA J. WRIGHT and others. } 82.

On this day comes Wm. H. Todd, by his solicitor, and, with leave of the court, files here his answer of W. H. Todd, one of the defendants herein, to interrogatories in answer of Altona C. George.

Interrogatories propounded to Wm. H. Todd by the answer of Altona C. George, executrix.

1st. Was not our claim, mentioned in your petition in this cause, and allowed in favor of A. D. Kelly & Co. against the estate
694 of J. W. Craig for $45,607.76, (and the balance due upon it assigned to Wm. W. Frazier, and then assigned to you), assigned to you for collection, and for the benefit of yourself and W. W. Frazier and A. D. Kelly & Co. and Joshua M. Craig, or either two of said persons; if yea, for she benefit of which two or more persons?

2d. Have you any interest in said claim except for collection, and what is that interest?

3d. Did Joshua M. Craig (or any other person) actually pay in money to said A. D. Kelly & Co. the sum of $19,266.09, endorsed a credit upon said claim, or the order of the probate court of Chicot

county, on the 18th December, 1865,? Did A. D. Kelly & Co. owe said Craig said sum; and, if neither, by whom and how and
695 when was said sum paid?

4th. Did you, or not, pay to said William W. Frazier any consideration for making said assignment of what might be owing upon said claim to you without recourse upon him; if yea, what and how much was the consideration for making said assignment, and when was it paid, or is it to be paid?

5th. Was not more of said claim paid to said A. D. Kelly & Co. than appears to have been credited upon it, or paid to said Frazier or to yourself; if yea, when and how much?

6th. Did you, or not, purchase — said Wm. W. Frazier for a sum of money or other consideration, depending upon your ability
696 to collect the claim in whole or in part? if yea, state the consideration and terms of said purchase.

7th. Did you, or not, know of Emma J. Wright's having filed a bill in this court against yourself and others to set aside said claim upon the ground of usury, fraud, or illegality of payment, and her dismissing said bill, all for a consideration of ten thousand dollars, or any other consideration? if yea, state when said bill was filed and who paid her that consideration, and all you know about the transaction.

Creditors' Bill.

Case in Chicot Co., Ark.

The Answer of Wm. H. Todd to the above Interrogatories propounded.

697 No. 1. The claim of A. D. Kelly & Co. allowed by the probate court of Chicot co. against the estate of J. W. Craig, deceased, was purchased by me at the city of New Orleans about the 1st of May, 1867; the negotiation of sale was made with Mr. A. D. Kelly and Kemper, so far as about one-half the claim was concerned, and J. M. Craig had previously negotiated for the purchase of the other half, and by consent or understanding controlled that interest; the sale was unconditioned, and I made the purchase without recourse and for my own benefit as to one-half the claim of A. D. Kelly & Co., and was to have the assignment from Wm. W. Frazier, which I got afterwards accordingly. Joshua M. Craig, who had an equity of about one-half the claim, sold me at the same time one-half his half interest for five thousand dollars cash, paid down on
698 1st May, 1867, and for the interest of W. W. Frazier I sold him a large house and lot in Phila. for sixteen thousand dollars, on which there was a mortgage of five thousand dollars, which, when deducted, was a payment of eleven thousand dollars, as part of the consideration of the purchase of said claim, and on the same day, I executed three promissory notes of three thousand nine hundred and forty-eight dollars $\frac{20}{100}$, one due on 1st Dec., 1869, and two others payable two and four years thereafter of similar amounts, without interest, each payable to my own order; on the 1st note is a part of two thousand dollars; all was secured by mortgage on part of Yellow Bayou lands and of record in Chicot, and J. M. Craig in

Aug., 1867, for the further consideration of five thousand dol-
699 lars to him paid, ceased to have any further int. in law or equity in and *two* the said claim of A. D. Kelly & Co. above stated.

2 In. I have all the claim, and no one else has any int. in said claim except counsel fees of ten per ct. of the Ky. portion.

3rd Interrogatory. I know nothing of the credit endorsed on said allowance by J. M. Craig at the time or any other time.

4th Interrogatory. The house and lot in Phila. I offered to convey to Wm. W. Frazier as directed by A. D. Kelly; the said Frazier refused, at his advanced age, to have real estate, and it was subsequently made to his grandson, Wm. Frazier Kelly. The negotiable notes I know not much of their present ownership; Mr. Kelly and Frazier said that Kelly owed Frazier largely.

700 6th Interrogatory. I never knew or understood by any one that one dollar more was ever paid on A. D. Kelly's claim than appears endorsed, nor do I know how that credit came to have been made. If A. D. Kelly had not fallen in fortune no one would have dared to have put such interrogatories.

6th Interrogatory. I made the purchase absolute, unconditional, and without recourse on any one on earth, and no one has a particle of interest in said claim but myself, except so much as is paid in Ky.; will pay att'ys 10 per cent., and I expect to release the whole claim in gold in Ark. & Ky., and, if so, need no recourse.

7th Int. I was aware of the suits, and if it would have, if gone on, amounted to about *to about* what the foregoing interroga-
701 tories will avail those putting them, James S. Woolfolk and myself agreed to give Miss Wright ten thousand dollars to have an end of law suits and gain possession of the estate and have a receiver appointed; we hope to have purchased peace and qui-t. I was to pay of the $10,000 $6,190.50; $1,238.10 with int. has been paid, and the residue to be paid by *defend* pay'ts.

Having fully answered, pray to *to* be dismissed, with reasonable costs, &c.

WM. H. TODD.

Sworn and subscribed before me, this 26th September, 1870.

[L. S.] WILLIAM S. TOLAND,
Ald'm'n and Ex-officio Justice of Peace.

Endorsed: Filed in open court, this 18th of October, 1870. H. W. Graves, clerk.

702 At the October term, 1880, of the Chicot circuit court, in chancery on the 25th day of October, 1880, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG
vs. } 82.
EMMA J. WRIGHT *et al.*

By consent this case is continued.

At the March term, 1871, of the Chicot circuit court, in chancery, on the 30th day of March, 1871, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG
vs.
EMMA J. WRIGHT *et al.* } 82.

By consent this case stands continued.

703 At the September term, 1871, of the Chicot circuit court, in chancery, on the 3rd day of October, 1871, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG, dec'd,
against
EMMA J. WRIGHT *et al.* } 82.

This day comes Wm. H. Todd, by his solicitor, and upon leave files an exemplification of his decretal of the chancery court of Louisville, Kentucky, for the sale of the reality of Junius W. Craig, deceased, in the city of Louisville and county of Jefferson, in the State of Kentucky, and of the commissioners' report of said sale, and the proceedings and orders of said court therein.

COMMONWEALTH OF KENTUCKY, *Louisville Chancery Court:*

704 Pleas before the Honorable Thomas B. Cochran, chancellor and sole judge of the court aforesaid, held at the court-house in the city of Louisville, on the — day of ——.

JOSEPH S. WOOLFOLK, &c., *vs.* J. W. CRAIG, H'RS, &c.

J. J. PEAK, &c., *vs.* SAME.

Be it remembered that heretofore, to wit, at a court held for the court aforesaid, on the 11th day of February, 1871—

These causes being heard upon the commissioners' reports and the evidence herein, and the court being of the opinion that it will require a sale of decedents' real estate in this State to pay his debts, and being further of the opinion, and so adjudged, that it
705 will require the sale of at least ($80,000) eighty thousand dollars worth of decedent's real estate to be sold to pay his debts.

It is adjudged and ordered that the marshal of this court sell upon a credit of six, twelve, eighteen, and twenty-four months, according to law and the rules of this court, enough of decedent's real estate as will amount to $80,000. Said property being described as follows, viz:

A lot of ground in the city of Louisville, on the south side of Main street, between 3rd & 4th, cross streets, having a front on Main street of thirty-nine (39) feet, more or less, and running back at right angles to Main street, same width, one hundred feet, being the same lot conveyed to decendent by James C. Johnston and others,

on the 10th of August, 1857. The marshal will sell said lot
706 in two parcels, so as to conform to the improvements thereon, and a plat filed herein by Thomas A. Morgan, No. 22, 1867, and said property is to be sold subject to any agreement there may be with James Rudd in regard to the partition walls; and another lot in said city on the north side of Main street, between Floyd and Preston streets, commencing (315) three hundred and fifteen feet east of Floyd street and running thence east with Main street one hundred and twenty-nine (129) feet, and thence back the same width (204) two hundred and four to Washington street, being the same property conveyed to decedent by J. B. Alexander, April 17th, 1857. The marshal will divide this property in parcels, and sell the same in parcels, or as a whole, as will bring the most money. Also a tract of land in this (Jefferson) county, containing one hundred and ten acres, more or less, known as the Conard place, purchased
707 of Geo. Hancock, Mar. 4, 1857, and bounded as follows:

Beginning at a stone and hickory in a road corner to Bentlinger, running thence north ¼ E. $64\frac{2}{10}$ poles to a stake, corner to the other land conveyed to decedent by said Hancock on same day; thence N. 89½ W. $40\frac{1}{10}$ poles to walnut stump corner to said Craig; thence S. ½ E. with Dr. Jas. Johnson avenue 85 poles to a stake; thence S. ½ E. 50 poles along said avenue corner of Johnson; thence same course to corner of the said Bullock place; thence southwardly with their line to an old corner of Young & Bullock's; thence with their old line crossing the creek to a corner of Johnson's, being Young's old corner; thence with the line of the old Bullock tract, to a corner near Martin's stake; thence N. 89½° west to the beginning; and another tract of land in same county, being ad-
708 joining the land on which Geo. Hancock resides, and the same conveyed by said Hancock to decedent March 4th, 1857, and bounded as follows: Beginning on the Bardstown turnpike road, near a stone culvert, and running thence with said road north 25° 50″ W. $73\frac{3}{10}$ poles; thence N. 64½ E., passing a stone $46\frac{4}{10}$ poles to a red oak and iron-wood tree; thence N. 88½ E. $132\frac{6}{10}$ poles to a stone; thence N. $18\frac{3}{10}$ poles to a stone; thence N. 1¾″ west 70 poles to a stake; thence S. 89° 10′ E. $127\frac{2}{10}$ poles to a stone; thence *thence* S. 89½ E. 96½ poles to a white oak; thence ¼″ W. $82\frac{3}{10}$ poles to a stake; thence N. 89½ W. $40\frac{1}{10}$ poles to a walnut stump; thence S. ½° E. 85 poles to a stake; thence S. 89½ W. $88\frac{3}{10}$ poles to a stake; thence N. 3° west 31½ poles to a stake; thence S. 76° west $143\frac{2}{10}$ poles, crossing a road to a stake; thence 92 poles to the beginning, containing two hundred and eighty-five (285) acres, more or
709 less. The marshal may sell said tracts in parcels according to a survey and plat made by W. J. McGonigall, dated July 9, 1868, and now on file in these cases, if this land will bring more in that way, or he may sell in such way as will bring the most money.

It is further ordered, that this order of sale may be executed forthwith, and it — further ordered that all questions to who is entitled to the proceeds of said sale, and how the proceeds are to be divided, is reserved for further consideration and adjudication, as are all other

questions herein, except the necessity for, and the decree of, sale of the real estate of decedent, as herein decreed.

At a court held for the court aforesaid, on the 10th day of
710 March, 1871, came the marshal, and produced in court his report of sale, which is ordered to be filed, and it is ordered that the said report of sale be laid over one week for exceptions.

Said report is in words and figures as follows, to wit:

In obedience to a decree of the Louisville chancery court, rendered in this case, I advertised for ten days by printed bills posted at the court-house door, and for five days in the Louisville Courier-Journal, that I would, on Monday, February 27th, 1871, at about the hour of eleven o'clock a. m., sell at public auction to the highest bidder, at the court-house door in the city of Louisville, on credits of six, twelve, eighteen, and twenty-four months, so much as might be necessary to satisfy the decree herein of the following-described property, to wit:

A lot of ground on the south side of Main street, in the city
711 of Louisville, Ky., between 3rd and 4th streets, having a front on Main street of 39 feet, more or less, and running back at right angles to Main street, same width, 100 feet, being the same lot conveyed to decedent by James C. Johnston and others on the 10th day of August, 1857, this property to be sold subject to any agreement that may be [made] with James Rudd in regard to partition walls. Another lot in said city on the north side of Main street, between Floyd and Preston streets, commencing 315 feet east of Floyd street, and running thence east with Main street 129 feet, and thence back same width 204 feet to Washington street, being the same property conveyed to decedent by J. B. Alexander April 17,
712 1857. Also a tract of land in Jefferson county, containing 110 acres, more or less, known as the Conard place, purchased of George Hancock March 4th, 1857, and bounded as follows:

Beginning at a stone and hickory on a road corner to Brentlinger, running thence north ¼ E. 64.2 poles to a stake corner to other land conveyed to decedent by said Hancock on same day; thence north 89½ W. 40.1 poles to a walnut stump corner to said Craig; thence ½ E. with Dr. James Johnston's avenue 85 poles to a stake; thence south ½ E. 50 poles along said avenue corner to Johnston; thence same course to corner of the old Bullock place; thence southwardly with their old line to an old corner of Young and Bullock:
713 thence with their old line crossing the creek to a corner of Johnston, being Young's old corner; thence with the line of old Bullock tract to a corner near Martin's stable; thence north 89½ west to the beginning. Also another tract of land in said county, being adjoining the land on which George Hancock resides, and the same conveyed by said Hancock to decedent March 4th, 1857, and bounded as follows:

Beginning on the Bardstown turnpike road, near a stone culvert, and running thence with said road north 25° 50 W. 73.3 poles; thence N. 64½ E., passing 46.4 poles to a red oak and iron-wood tree; thence N. 88½ E. 132.6 poles to a stone; thence N. 18.3 poles to a stone; thence N. 1¾ W. 70 poles to a stake; thence S. 89°
714 10′ E. 127.2 poles to a stone; thence S. 89½ E. 96½ poles to a

white oak; thence ¼° W. 82.3 poles to a stake; thence N. 89½ W. 40.1 poles to a walnut stump; thence south ½ E. 85 poles to a stake; thence south 89½ W. 88.3 poles to a stake; thence N. 3 W. 31½ poles to a stake; thence S. 76¼ W. 143.2 poles, crossing a road to a stake; thence 92 poles to the beginning, containing 285 acres, more or less. That the purchaser would be required to give bond with approved security, bearing interest from date until paid, and that a lien would be retained as additional security. I attended at the time and place specified, and offered the property on Main street, between 3rd and 4th streets, in two parcels, conforming to the plat filed by T. A. Morgan Nov. 22, 1867, herein. For the house
715 and lot nearest 3d street, having a front of 17 ft. 9½ inches, J. S. Woolfolk bid twelve thousand dollars, and for the house adjoining, having a front of 22 feet ½ each, being the balance of the lot on Main street, between 3d and 4th streets, herein described, J. S. Woolfolk bid thirteen thousand two hundred dollars. These being the highest bids on said two houses, and lots, and no one offering to bid any more, they were struck off to said Woolfolk at the above-named bids. The lot on Main street, between Floyd and Preston streets, was divided into three lots, and offered first separately and then as a whole. J. S. Woolfolk bid for said property, as a whole, sixteen thousand one hundred dollars, and this being more than was offered for it in separate lots, it was struck off to him at that price.

The land in Jefferson county, herein described, was in
716 obedience to the decree herein offered in four different lots, as laid off on the plat made by W. J. McGamgill, July 9th, 1868, and also in one entire lot. For lot No. 1 as marked on said plat, containing 163¼ acres, George Hancock bid twenty-two dollars per acre; for lot No. 2, containing 66 A. 3 R. 17 P., George Hancock bid twenty dollars per acre; for lot No. 3, containing 50 acres, Benjamin Brentlinger bid twenty-eight dollars per acre; for lot No. 4, containing 108 A. 2 R. 9 P., George Hancock, for John A. Fisher, bid fifteen dollars and twenty-five cents per acre. These being the highest bids that were made, and more than was offered for it in one entire lot, the different lots above mentioned were struck of- to the parties, and at the prices named. J. S. Woolfolk has executed four notes, in compliance with the terms of sale, for ten thousand
717 three hundred and twenty-five dollars each, with Horace G. Craig as security; George Hancock has executed four notes for twelve hundred and thirty-two dollars 16¼ cents each, with James C. Johnston as security; Benjamin Brentlinger has executed four notes for three hundred and fifty dollars each, with George Hancock as security; John A. Fisher has not yet executed his bonds. The above-mentioned lands and copies of the advertisements are filed herewith. T. C. WELLMAN, *M. L. C. C.*

Advertising in Courier	$47 50
Printed bills	2 00
Marshal's com's on $49,284.22	504 87
	554 37

The following supplemental report was filed June 30th, 1871, and is in words and figures as follows, to wit:

718 Since making my report of sale in this case, John A. Fisher, by his attorney-in-fact, George Fisher, has executed four notes, in compliance with the terms of sale, for four hundred and thirteen dollars and 89¼ cts. each, with George Hancock as surety. The power of attorney from John A. to George Fisher to execute the notes is herewith filed. I also file with this report said notes.

F. C. WELMAN, *M. L. C. C.*

At a court held for the court aforesaid on the 17th day of March, 1871, on motion of plaintiff by counsel, it is ordered that the marshal's report of sale (except as to Fisher's purchase) be, and the same is hereby, approved and confirmed. And the commissioner is directed to execute deeds to the purchasers accordingly.

719 At a court held for the court aforesaid on the 31st day of March, 1871, came W. H. Todd, by counsel, and filed his motion and grounds in writing to set aside the sale herein. Said motion is in words and figures as follows, to wit:

The defendant, William H. Todd, moves the court to set aside the various sales of the property in this case for the following reasons & causes:

1st. Because the court had no power to order said sales, and the said order of sale and subsequent proceedings thereunder are null and void.

2nd. Because the order of sale was premature, irregular, and void.

3rd. Because there was more land sold than would raise the sum allowed any named creditor or creditors in the decree.

720 4th. The order of sale was made before all interested parties in the property were before the court.

5th. Because the property brought greatly less than its real value.

LINDSAY PIKE,
BARRETT & ROBERTS,
For W. H. Todd.

At a court held for the court aforesaid on the 26th day of May, 1871, on motion of plaintiff, by counsel, this cause coming on to be heard, upon the motion to set aside the order confirming the sale herein, was submitted, and the court not being advised, took time, &c.

721 At a court held for the court aforesaid on the 9th day of June, 1871, this cause being heard on the motion of W. H. Todd to set aside the order of sale and sales made herein, it is ordered that the said motion be, and is hereby, overruled, to which W. H. Todd, by counsel, excepts.

COMMONWEALTH OF KENTUCKY, } sct:
Louisville Chancery Court, }

I, Thomas W. Thompson, clerk of said court, do hereby certify that the foregoing papers and orders are truly and fully copied from the records of said court now on file in my said office.

In testimony whereof, I hereunto set my hand and affix the seal of said court, at the court-house, in the city of Louisville, this 21st day of September, 1871.

[SEAL.] THOMAS W. THOMPSON, *Clerk.*

I, Thomas B. Cochran, chancellor of the Louisville chan-
722 cery court, in the State of Kentucky, do certify that James M. Thompson, whose name is signed above, is the clerk of said court, and was such at the time of making his certificate, and that his attestation is in due form.

Witness my hand this 21st Sept., 1871.

T. B. COCHRAN,
Chan'r Louisv. Ch'cy Court.

Endorsed thereon: Filed in open court October 3rd, A. D. 1871. H. W. Graves, clerk.

At the September term, 1871, of the Chicot circuit court, in chancery, on the 4th day of October, 1871, a day of said term of said court, among others, the following proceedings were had, viz:

723 WILLIAM H. TODD, JOSEPH S. WOOLFOLK, LUCY D. WOOLFOLK, and others, Creditors of Junius W. Craig, deceased,

vs.

EMMA J. WRIGHT, Executrix of the last Will *in* Testament of Junius W. Craig, Dec'd., his Heirs-at-law and Legatees, and others.

In this case, that the same may be made ready for final hearing and decree, marshalling the assets of said estate, it is ordered as follows, that is to say:

1. That Daniel H. Reynolds, Esq., be appointed special master in chancery in this case.

2. That the said master proceed upon the papers in this
724 case, the record of the probate court of Chicot county in regard to the claims of A. D. Kelly & Co. against the said estate, the copies of depositions on file herein, and the oral evidence of Joshua M. Craig, and any other witnesses who may be produced to him by any of said creditors, to inquire into and report whether upon the facts so appearing, and upon the law of the State of Louisiana in regard to pledges of negotiable paper and other choses in action or collaterals, the said claim and allowance in favor of A. D. Kelly & Co. is or is not entitled, so far as the same remains unpaid, to be paid in full out of the assets of said estate, either under and by virtue of the order of the said probate court, placing it in the third class as in equity, and by virtue of agreement with the administrator of

725 the said estate, or of their right to retain until this credit and claim was paid or secured to be paid in full, the notes, acceptances, and other papers as collaterals that had been placed in their hands to secure advances by the said Junius W. Craig in his lifetime, the said master reporting the facts in regard to said claim and to the surrender of said notes, acceptances, and other collaterals by the said A. D. Kelly & Co. to the said administrators, and on what terms and guarantees they were to surrender; and the law of the State of Louisiana as to their rights and interest in the said notes, acceptances, and other collaterals ascertained in the
726 statutes of that State, and as declared by the supreme court.

3rd. That the said master state and report the amount due and unpaid of each and every claim allowed against the said estate by the probate court aforesaid not heretofore fully paid, charging against the allowances in favor of the said William H. Todd and Joseph S. Woolfolk and wife the proper credits on account of the amounts properly applied towards the payment of each such allowances respectively of the sums bid by the said William H. Todd for the two plantations known respectively as Bellevue and Yellow Bayou, under the mortgage held by the said William H. Todd, and the lien in favor of the said Lucy D. Woolfolk, stating in each case the balance unpaid, and from what time and
727 at what rate interest has run thereon; and that in regard to the claim and allowances of Altona C. George, executrix of the will of Horace George, deceased, he enquire and report, upon such testimony as may be produced to him, what notes, bills, bonds, and other assets of the said estate of Junius W. Craig, deceased, in addition to payments in money on her said allowance, were placed in her hands by the administrator of that estate, or by the executrix of the will of Junius W. Craig, deceased, and upon what agreement; and if she received and accepted the same absolutely and as payment to their full amount upon her said claim and allowance, that the said master ascertain and report what amount of her said claim and allowance remains unpaid, and also if said agreement was made upon
728 any condition in regard to tax, title, or otherwise; that he report whether the same has been or can be performed; and if said notes, bills, bonds, &c., were not received absolutely, but she can be held to account only for so much as she may have collected or may collect thereof, that he ascertain and report what measures have been taken to collect the same, what amounts thereof have been collected, what suits there are instituted, and the result and condition of such suits, in the county of Phillips, in this State, or elsewhere, to which end he is empowered to cause the said Altona C. George to appear before him and to answer interrogatories in regard thereto, and to procure for him information in regard thereto from her attorneys or agents.

729 4th. That the master also report what claims and allowances against the said estate have been paid in full, and the amounts and dates of all payments in such cases, and what amounts, if any, on account thereof, ought to be refunded to the receiver of the assets of the said estate.

5th. That the said master ascertain and report the amount of assets of the said estate in the hands of William H. Todd, and what sums out of the fund in his hands arising from the sales of the lands of said estate have been properly paid by him as expenses of administration or otherwise, and what other sums are still payable as such expenses and otherwise out of such fund.

6th. That the said master ascertain and report the amount of assets of the said estate in the custody of the chancery court
730 of the city of Louisville, arising from sales made by *the* order of lands of said estates in the city of Louisville, and county of Jefferson, in the State of Kentucky.

7th. That the master ascertain and report in the alternative what per centum may be safely paid out of the said fund upon the allowances against said estate, 1st, in case the said claim of A. D. Kelly & Co. is to be paid in full, and, 2nd, in case it is to be paid as a claim in the fourth class, including in the estimate of assets the said proceeds of lands in Kentucky, and deducting all claims and demands in suit or otherwise, for expenses of executorship or administration.

8th. That the said master also ascertain and report the value and condition of the realty of the said estate in the city of Memphis, in the State of Tennessee.

731 9th. That the said master also ascertain and report, hearing the said William H. Todd and his counsel and Charles H. Carlton, Esq., and any witnesses produced by either, in regard thereto, and the said receiver and his counsel, and upon full examination of the record and proceedings in the suits for foreclosure of the said Emma J. Wright, as executrix, and of Richard H. Stuart against Samuel R. Walker and others, to what fee and compensation, if any, the said Charles H. Carlton individually, or as survivor of the firm of Chapman and Carlton, is entitled as counsel for the complainant in said first-mentioned suit, as against the receiver aforesaid, on the administration or executorship of the said estate, and that he include the amount of such first compensation
732 among the expenses of administration, to be paid out of said fund.

10th. That the said master also ascertain and report the amount of fees and compensation, if any, to which Albert Pike, Esq, is entitled for his services as counsel in the same case, and for instituting suit in behalf of the creditors of said estate in the chancery court of the city of Memphis, to subject to their claims the real estate of Junius W. Craig, deceased, in that city, and that he include the amount of such first compensation among the said expenses of administration.

And it is further ordered that Charles W. Fry, Esq., receiver in this case, do proceed, without any delay, to demand and receive from Joshua M. Craig, former administrator, and from Emma J.
733 Wright, late executrix, and from all attorneys or others having possession of the same, all bonds, bills, notes, mortgages, and other choses in action and evidences of debt belonging to the estate and succession of the said Junius W. Craig, deceased, and to

place the same in the hands of competent attorneys for collection. And that he make report thereof, and of his action under this order, on the first day of the next term of this court.

And it is further ordered that the said receiver do employ competent counsel to prosecute in this court the suit for foreclosure of the said executrix against Samuel R. Walker and others, the fees of such counsel, and if any other counsel employed by him under these orders, to be paid, upon the order of the receiver, out
734 of said fund in the hands of the said William H. Todd.

And it is further ordered that the receiver continue the employment of Charles W. Adams and Leonidas V. Dixon, Esqs., of Memphis, Tennessee, or employ other counsel in the prosecution of the suit of the creditors of said estate, pending in one of the chancery courts of the city of Memphis, to subject to the claims of said creditors the real estate that was of Junius W. Craig, deceased, in the said city, and include the fees and compensation stipulated among the said expenses of administration, and that he see to it that the said suit be vigorously and efficiently prosecuted.

And it is further ordered that the allowances against the said estate in favor of C. W. Saunders, and now held by C. H. Carlton, adm'r of J. Chapman, dec'd, for $160.00, with interest at the
735 rate of six per cent. per annum from the seventeenth day of July, A. D. 1860, until paid, and in favor of R. A. Goodlow, for the sum of two hundred dollars, with interest at the rate of six per cent. per annum from the 18th day of July, A. D. 1859, until paid, be paid in full by the said William H. Todd out of the fund in his hands, and that payment of the same be enforced, if necessary, by attachment.

And it is further ordered that the sum of ——, allowed to William B. Street for legal services rendered to the said estate, be paid by the said William A. Todd out of the fund aforesaid in his hands, with interest thereon at the rate of six per cent. per annum from the — day of ——, A. D. 18—, until paid, and that payment thereof, as expenses of administration, be *confessed*, if necessary, by attachment.

736 It is further ordered that all other sums of money, finally allowed and adjudged to any person or persons whatever as expenses of administration of said estate, or compensation of counsel for services rendered to the same, be paid by the said William H. Todd out of the said fund, payment thereof to be enforced, if necessary, by attachment.

It is further ordered that all costs in court adjudged against the administrator of the said estate, or the said executrix as such, or which are by law presently demanded of either of them, or of the said receiver, be paid on the order of the said receiver out of the said fund, upon regular fee bills duly made and certified.

It is further ordered that any person or persons having valid
737 claims against the said estate and succession, which claims may be properly *be* included among the expenses of administration, or for compensation for legal or other services rendered said administrator or executrix as such or said receiver, be allowed to

prove the same before the said master, at any time before the next term of this court.

And it is ordered that the said master file his report on the first day of the next term of this court, to which time this cause is continued.

At the spring term, 1872, of the Chicot circuit court, in chancery, on the 25th day of March, 1872, a day of said term of said court, among others the following proceedings were had, viz:

738 *Creditors' Estate.*

J. W. CRAIG
v.
EMMA J. WRIGHT. } 82.

Comes D. H. Reynolds, who was at the last term of this court appointed special master in this cause, and files his request for further time to make report of the matter submitted to him.

In the Chicot Circuit Court. In Chancery.

CREDITORS OF J. W. CRAIG
vs.
EMMA J. WRIGHT and others. } 82.

To the Honorable Henry B. Morse, judge of said court:

739 The undersigned, having been appointed at the last September term of this court as special master in this cause, with instructions and directions in regard to certain matters therein upon which an investigation and report was desired, begs to say that owing to certain riots and troubles in said county, commencing in December, 1871, which in a great measure suspended business in said county for a long time, and other causes he has not been able to appropriate the time necessary to the investigation of said matters that their importance demanded, and that he is not prepared to make a report at this term, and he, therefore, begs further time until next term of this court, in order to investigate and make report of the matters submitted to him.

D. H. REYNOLDS,
Special Master.

Endorsed as follows: Filed in open court this March 25th, 1872. H. W. Graves, clerk.

740 At the fall term, 1872, of the Chicot circuit court, in chancery, on the 23rd day of September, 1872, among others the following proceedings were had, to wit:

CREDITORS OF ESTATE J. W. CRAIG
vs.
EMMA J. WRIGHT, EX. } 82.

On this day comes the master heretofore appointed in this cause, and files his report and the report of the receiver.

In the Chicot Circuit Court.

THE CREDITORS OF JUNIUS W. CRAIG, Deceased,
vs.
EMMA J. WRIGHT, Executrix of the Will of Junius W. Craig, his Heirs-at-law and Legatees, and others.

To the Honorable Henry B. Morse, judge of said court, in chancery sitting:

741 In pursuance of the order of this court, made at the October term, 1871, appointing me special master in the above-entitled cause, with instructions to inquire and report whether the claim and allowance in favor of A. D. Kelly & Co. is or is not entitled, so far as the same remains unpaid, to be paid in full out of the assets of said estate, and the facts in regard to said claim, and the surrender of the notes held by said A. D. Kelly & Co. as collateral, and the law of Louisiana in relation to pledges of notes, &c., as collaterals, as contained in the statutes and the decisions of the supreme court; to state and report the amount due upon all claims allowed against said estate & not fully paid, after giving all proper credits, and state the balance due in each case, with rate of interest and the time the same has run in each case, respectively; to inquire
742 and report in regard to the claim of A. C. George, Ex'r'x, &c., what sums, in notes, money, or otherwise, was paid on said claim, and upon what terms or agreement she received said notes, and whether such agreement has been performed, the balance due on said claim, and if said notes were taken as an absolute credit on her claim, and if not, what she has collected on *on* the same; to state and report what claims against said estate have been paid in full, with dates and amounts of such payments, and what amounts, if any, ought to be refunded to the receiver of said estate; to ascertain and report what assets of the estate are in the hands of Wm. H. Todd, and what sums are still payable, as expenses of administration and otherwise, out of such fund; to ascertain and report the amount of assets of said estate in the chancery court of Louis-
743 ville, arising from sale of lands in the city of Louisville and county of Jefferson, in the State of Kentucky; to ascertain and report in the alternative what per cent. may be safely paid out of said funds upon the claims against said estate: 1st, in case the claim of A. D. Kelly & Co. is to be paid in full, and, 2d, in case it is to be paid as a claim in the fourth class, including in the estimate the assets in Louisville chancery court, and deducting all claims for expenses of administration; to ascertain and report the value and condition of the property of the estate in the city of Memphis, State of Tennessee; to ascertain and report, after hearing parties, &c., what fee Charles H. Carlton, as surviving partner of Chapman and Carlton, is entitled to as counsel for plaintiffs in the chancery suit 68 in this court; to ascertain and report what fee Albert Pike,
744 Esq., is entitled to for services as attorney for complainants in said chancery suit No. 68 and suit in chancery court in Memphis, Tennessee, to recover property of said estate; to examine

any claims presented for allowance as expenses of administration, and take proof of and report the same.

I report that on March 1, 1858, said James W. Craig deposited with said A. D. Kelly & Co. promissory notes due to him from claims, and falling due at divers times from March 8, 1858, to Aug. 10, 1862, and amounting to the sum of $79,276.60, "as collaterals and advances made and to be made" to said Craig; that under the law of Louisiana at that time (after passage of act of Feb'y 12, 1852) such deposit amounted to a pledge of the same as security for such advances, and under the laws of Louisiana in relation
745 to pledges A. D. Kelly & Co. had a right to retain such collaterals until all the advances that such collaterals were intended to secure were paid in full. (See Civil Code of Louisiana, Art. 3100.) The pledge is a contract by which one debtor gives "something to his creditor as a security for his debt." 2nd clause of Art. 3125 and Rev. Statutes, 1870, p. 565 (Art. 1852-5), Sec. 2904, says: "When a debtor wishes to pawn promissory notes, bill of exchange, stocks, obligations, or claims upon other persons, he shall deliver to the creditors the notes, bills of exchange, certificates of stock, or other evidences of the claim so pawned; and such pawn, so made, without further formalities, shall be valid as well against third persons as against the pledges thereof, if made in good faith."

Art. 3124 says: "The pawn invests the creditor with the right
746 of causing his debt to be satisfied by privilege and in preference to the other creditors of his debtors out of the product of the movable, corporeal or incorporeal, which has been thus burdened." Art. 3131 says: "The creditor who is in possession of the pledge can only be compelled to return it, but when he has received the whole payment of the principal, as well as the interest and costs." That at the time said Junius W. Craig deposited said notes with A. D. Kelly & Co. he owed them some $19,000, and that on January 12, 1859, the estate of said Junius W. Craig owed said A. D. Kelly & Co. $45,607.76, which sum was duly sworn to by A. D. Kelly, a member of said firm, on that day, and on the 26th day of April, 1859, was presented to J. M. Craig and John R. Llewellyn, then administrators of said estate, and by them allowed as a claim against
747 said estate, and on the same day filed in the probate court of Chicot county for classification; that on 30th of April, 1859, said administrators filed their petition in said probate court, stating that certain notes, &c., amounting to $75,000 or $80,000, had been deposited with A. D. Kelly & Co. by said Junius W. Craig as collaterals to secure said claim, and that A. D. Kelly & Co. held a lien on said notes to secure their claim; that one Lewis E. Craig had taken out letters on said estate in New Orleans, based on a receipt of said A. D. Kelly & Co. for said collaterals, &c.; that said collaterals were liens on lands sold by said Junius W. Craig in his lifetime, and that they, as administrators, &c., would have to make title to such lands
748 before said notes would likely be paid; that they, as such administrators, had in their hands "about the sum of fifty thousand dollars in cash belonging to said estate, which is more than enough to pay said amount due said firm, and release said collate-

rals and stop the interest which is running on said claim, and make said collaterals available" to liquidate the debts of said estate; that as said A. D. Kelly & Co. had a lien on said collaterals, they submitted to the court whether their claim should be classed in the third or fourth class of claims against said estate, and prayed that said claim might be classed in its proper class, and for the payment of said claim on condition said A. D. Kelly & Co. could deliver the said collaterals free from any incumbrance, &c.; that on said
749 30th of April, 1859, said probate court ordered that said claim be classed in the third class of claims against said estate; that said administrators pay said claim immediately, with interest thereon at 6 per cent. from January 12, 1859, on condition, however, that said collaterals were given up to them by said A. D. Kelly & Co. free from any lien by said firm, or any person, or of any court of record of the State of Louisiana; that at the time of such allowance and classification, the laws of Arkansas classed claims against estates of deceased persons as follows: "1st. Funeral expenses. 2nd. Expenses of last sickness, wages of servants, and demands for medicines and medical attendance during the last sickness. 3rd. Judgments rendered against the deceased in his life-
750 time, and which are liens on the lands of the deceased, if he died possessed of any; otherwise to be regarded as debts due by contract. 4th. All demands, without regard to quality, which shall be exhibited to the executor, administrator, properly authenticated within one year after the first granting of letters on the estate." Gould's Digest, chapter 4, Sec. 99, & Sec. 185 of said chapter 4 says: "If any person die having * * * pledged any personal property or owing any equity of redemption, and shall not have devised the same as provided for the redemption thereof by will, the court of probate, on the application of any person interested, may order the executor or administrator to redeem such estate out of the assets in his hands, if it would be beneficial to the estate and not injurious to the creditors," or may order the interest of the estate to be sold at public auction. That after said claim had
751 been classed in the third class of claims by the probate court, and its payment by said administrators ordered, the said administrators, being anxious to pay off the smaller claims against said estate, desired said A. D. Kelly & Co. to permit them to use the money in their hands to the credit of said administrators in paying such smaller claims and carrying on the plantations of said estate in Chicot county, and to advance it to them from time to time for said purposes; that said A. D. Kelly & Co. desired, as commission merchants, to continue to do the business of said administrators, and said administrators and said A. D. Kelly & Co., regarding said estate as entirely solvent at that time, and absolutely able to pay all its debts, and disregarding their respective rights under order of
752 payment and the pledge of said collaterals, and for the advantages to be derived by them respectively by their arrangement to receive the funds to pay other debts and carry on the plantations on one side, and on the other side to hold and advance said funds and such other funds as might be necessary, and to derive

the benefits of transacting the business of said administrators, mutually agreed that the claim of said A. D. Kelly should remain unpaid for the time, and that the said sum in the hands of A. D. Kelly & Co., to the credit of said administrators, should be advanced to said administrators from time to time to pay other debts of said estate, and to pay expenses of carrying on said plantations, and that said A. D. Kelly & Co. should give up said collaterals to said administrators, and that said administrators should ship the crop
753 raised by them to said A. D. Kelly & Co., as their commission merchants (this agreement was a verbal one, and no writing was signed save the receipt for the said collaterals received from A. D. Kelly & Co., and this receipt has been lost; the facts in regard to said agreement, and the loss of said receipt, have been obtained from the depositions of A. D. Kelly and Geo. A. D. Kemper, composing said firm of A. D. Kelly & Co., and from Joshua M. Craig, one of the said administrators); that under said agreement said A. D. Kelly & Co. gave up said collateral to said administrators, and from time to time paid the drafts of said administrators given to pay off other claims against said estate, and that said A. D. Kelly & Co. received and sold
754 for the account of said administrators, and afterwards for Joshua M. Craig, sole administrator, cotton, in 1859, 1860, and 1861, but sold none in 1862; that the accounts of A. D. Kelly & Co. with said J. M. Craig as such administrator were finally closed on the 18th day of December, 1865, at which time the balance, of $19,266.09, due said administrator was placed as a credit on said claim as of January 1st, 1866; that on the 18th of December, 1865, A. D. Kelly & Co. assigned and transferred the balance of said claim to Wm. W. Frazier, and afterwards said Frazier assigned and transferred said claim to said Wm. H. Todd without recourse, and said Todd is now the owner of said claim; that if said claim had been paid, as ordered by the probate court, and other claims to the
755 amount of said claims had been left unpaid, then such claims, being of the fourth class, would only share *pro rata* with other fourth class claims now remaining unpaid; that at the time of said order of payment being made said A. D. Kelly & Co. had more than enough funds of the estate in their hands to pay their claim, and their collaterals were only to be given upon the order of court ordering payment being complied with, and that they gave up the collaterals and waived for the time their right to payment, and continued to act as the commission merchants of said administrators.

I, therefore, find and report that said claim and allowance in favor of A. D. Kelly & Co. is not entitled, so far as the same remains
756 unpaid, to be paid in full out of the assets of the said estate, neither by virtue of the order of the Chicot probate court, nor by virtue of the agreement with the said administrators at the time said collaterals were given up, nor by virtue of the right to retain the collaterals until their claim was paid in full; but that said claim should be paid as a claim of the fourth class against said estate.

2nd. I do further report that the claims against the said estate remaining unpaid, in whole or in part, with the proper credits in each case, so far as I have been able to ascertain them, and with the

interest calculated at its proper rate in each case from time to time, and with the amount due on each claim on the first day of
757 July, 1872, will be found in a list or schedule hereto annexed, marked Schedule "A."

3rd. I do further report, in addition to the sum of $8,000 paid on on April 6, 1860, and the sum of $4,000 paid on January 2, 1861, on the claim of Mrs. A. C. George, ex'r of will of Horace George, deceased, that on the 1st of August, 1867, Emma J. Wright, as Ex'r estate of Junius W. Craig, delivered to Henry Hayes, attorney for Mrs. George, certain notes then amounting to the sum of $13,470.54, to wit, one note against J. C. Johnston, Sr., and J. C. Johnson, Jr., for $4,000, and balance on note of same amounting to $272.43, one note against George W. Johnson for $600, one against same for $216, one note against J. Stoddard Johnson for $1,085.78, one note against C. A. Moore for $1,792, and one note against John
758 Preston, Jr., for $360. That notes were delivered as an absolute credit on said claim on the condition that the notes were all secured by liens on lands in Phillips county, and were clear of incumbrances from sales for taxes, and that there should be no abatement of interest, and, if so, that the estate of Junius W. Craig should make any such deficiency, and it was at the time understood and agreed that if any of said lands were sold for taxes that it would be a compliance with the agreement if the same were released from such sales; that some of said lands, as was afterwards ascertained, had been sold for taxes; and in compliance with said agreement the estate of Junius W. Craig redeemed said lands
759 so sold for taxes, and delivered the certificates of such redemption to Messrs. Street and Valentine, the attorneys for Mrs. George, ex'r.; that of the notes delivered in payment of said claim on August 1, 1867, the one, which as principal, there was due the sum of $272.43, and with the interest, making at that time, $426.34, was not secured by lien on lands, and being entirely worthless, has since been returned to the receiver of the estate, and thus leaving as the true sum as a credit on said claim on Aug. 1, 1867, $13,044.20; that I notified Messrs. Street and Valentine that I desired to obtain evidence from their client in regard to said claim, and of any demand she might make in relation thereto; but no
760 evidence was offered, and the facts as reported have been obtained from the receipt of Mrs. George from the claims, and the letter of Henry Hayes, her attorney, in relation to the claims and her petition in this cause; and that after giving credit for the note returned there is a balance still due her on her claim of $4,335,96, as of July, 1872. (See Schedule "A" hereto annexed.)

4th. I further report the claims against said estate that have been paid in full were paid at divers times between February 14, 1859, and March 10, 1861, and that they amount in the aggregate, including $3,086.57 interest, to the sum of $71,686.73; that a list of
761 said claims so paid in full, with the amount and date of allowance and amount and date of payment of each and every of said claims respectively is hereto annexed, marked Schedule "B;" that by bringing up the amount of July 1, 1872, the claims and

payments respectively would amount to, say $124,595.91, and add this to the 4th class of claims remaining unpaid, including the claim of A. D. Kelly & Co., also brought up to 1st of July, 1872, $181,735.46, and we will have *have* $306,331.37; and if we add the $124,595.91 to the sum that may be safely paid out on the 4th class claims, (see Schedule "D,") say $54,520.63, and we have $179,116.54 to pay said sum of $306,331.37; that is an amount sufficient to pay $585
762 per cent. on said sum, or if we add 415 per cent. of the claims paid in full to the $54,520.63, and we have a sum sufficiently large to pay 585 per cent. of said sum of $181,735.46 of fourth class claims remaining unpaid on July 1, 1872; that for reasons stated in Schedule "C," hereto annexed, it would not be possible to have any considerable part of said 415 per cent. refunded.

5th. I do further report that, after deducting the sum of $30,000, the purchase price for Yellow Bayou, and [on] which said William H. Todd had a mortgage, and the sum of $9,831, the amount which the said Lucy D. and J. S. Woolfolk were entitled to receive
763 by virtue of certain liens on Bellevue and the wild lands in Chicot county, there remained in the hands of said Todd, belonging to said estate of Junius W. Craig, as balance of purchase-money for lands of the estate sold by the receiver and bought in by said Todd, the sum of $43,374.47, and that, after giving him credit for sums paid out by him, and for which he should have a credit on said $43,374.47, that is to say, for sums paid out by him to Street and Craig, Robinson, Lewis & Cracraft, James McMurray as clerk, Johnson Chapman as receiver, and to redeem lands sold for taxes, and on which rested liens to secure the notes transferred to
764 Mrs. George, amounting to the sum of $3,542.40, which, owing to the difficulty of obtaining date of payment in each case, are credited as if paid immediately after the purchase of said lands, and after giving such credits, there is a balance in his hands of $39,832.07, and as this purchase-money was for lands sold at different times between the 16th of March, 1868, and the 31st of March, 1868, I adopted an even day, the 25th of March, 1868, and from that time to July 1st, 1872, the interest on said sum of $39,832.07, amounting to $9,879.48 at 6 per cent., and, after adding to the principal, gives the sum of, say, $49,711.55, and after deducting fee paid to Adams and Dixon, of Memphis, of $500.00, and a fee to
765 D. H. Reynolds of $250.00, and $250 paid the receiver of this estate, leaves a balance of $48,711.50, and remaining in the hands of said Wm. H. Todd, belonging to said estate, as of July 1, 1872, (see Schedule D, hereto annexed, for statement of same).

6th. I do further report that on the 27th day of February, 1871, the property of said estate of Junius W. Craig, situate in the city of Louisville and the county of Jefferson, in the State of Kentucky, was sold under a decree or order of the said chancery court of said city of Louisville on a credit of six, twelve, eighteen, and
766 twenty-four months, with interest from date of sale, and that said property brought the sum of $49,284.22, and adding the interest to this sum from Feb'y 27, 1871, to July 1, at 6 per cent., and it gives $3,975.59, which added to the principal gives $53,259.81

as amount on hand in said court on July 1, 1872, which sum must be reduced by the expenses in said court (see Schedule "D," hereto annexed, for statement of same).

7th. I do further report, after deducting all claims and demands in suits or otherwise for expenses of administration, and including the assets in the Louisville chancery court (see Schedule "A"
767 and Schedule "D"), there will remain say $68,964.56, and if said claim of A. D. Kelly & Co. is paid in full, it will only leave a balance of $11,632.30 to defray the expenses in the chancery court in Louisville, and any expenses that may hereafter accrue in this suit, and for distribution among other creditors a sum too small to safely permit any distribution among the creditors.

That if said claim of A. D. Kelley & Co. is to be paid as a claim of the fourth class, and deduct the sum of $14,443.93 to defray expenses in this suit, and in the chancery court of Louisville, and any possible amounts that may have been paid out by Wm. H.
768 Todd, and with which he is not herein credited, and we have for distribution the sum of $54,520.60, which will pay 30 per centum of the fourth class claims remaining unpaid in the A. D. Kelly & Co. claim, and entirely omitting the 5th class claims in favor of Horace F. Walworth and C. W. Saunders. I have made a list of the claims of the 4th class, and the amount that each would be credited with by payment of thirty cents on the dollar, and list showing the balance that would remain unpaid on each of said claims after such payment, and I have annexed the same hereto, marked "Schedule F," (see also "Schedule E," hereto annexed).

The property in Memphis was sold on the —— day of
769 August 1872, under a decree of the —— chancery court of Memphis, and brought about the sum of $23,500. It was sold on a credit of —— and —— months; and there are taxes due on said property, and that may have to be paid out of the proceeds of said sale. The sale was made at the instance of one Meath, who has a claim for some $18,000, as established in said court. Whether the other creditors will be allowed to share in the proceeds of said sale, or whether there will be any balance after paying the said claim of Meath and the taxes, if they are paid out of such proceeds, are questions that are still pending in said —— chancery court of Memphis.

770 9th. I do further report that after hearing the said Wm. H. Todd, Charles H. Carlton, James F. Robinson, and George K. Cracraft, as witnesses, and the said Todd and said Carlton as parties in interest, the matter of the fees and compensation claimed by said Charles H. Carlton, as surviving partner of Chapman and Carlton, for services as counsel for complainants in the suit of Emma J. Wright, ex'r., &c., *vs.* Samuel R. Walker and others, and numbered No. 68 on the chancery side of this court, and examining the papers in said suit, and in the suit of Richard H. Stewart *v.* Samuel R. Walker and others in this court, I am of the opinion, and so report, that said Carlton, as such surviving partner, is entitled to receive the sum of nine hundred dollars for his services,
771 and the services of said firm as counsel in said suit, and the

further sum of forty-five dollars for money paid out as costs and expenses in said suit; that I find there is due from said Carlton, or from said Chapman, as receiver, the sum of $101.34, the purchase-money for the lands in Crittenden county belonging to said estate, and that were sold by the said Chapman as receiver, and bought in by said Carlton as trustee, on the 31st of March, 1868; and that the said sum has not been heretofore accounted for; and that said sum with interest thereon to July 1, 1872, amounted to the sum of $128.13, and taking this sum from said $945, and we have the sum of $816.87, to which said Carlton, as such sur-
772 viving partner, is entitled as of July 1872, and to be paid as of expenses of administration.

10th. I do further report that Albert Pike, Esq., is entitled to the sum of $500.00 for his services as attorney in said chancery suit No. 68, and the further sum of $500 for his services in the chancery court in the city of Memphis, to subject the property in Memphis belonging to said estate to the payment of the creditors of said estate, said sums are allowed as of July 1, 1872, and to be paid as expenses of administration.

I do further report that in making an estimate of the amounts that might be safely paid, I have entirely omitted the 5th
773 class claim in favor of C. W. Saunders and the 5th class claim in favor of est. of H. F. Walworth, and that I did not credit Wm. H. Todd with the amount paid to Charles W. Adams, Esq., for his professional services in defending the suit of one Meath, and trying to subject the property in Memphis to payment of his claim, said estate, and which was deemed unjust, and if established might exhaust all of said property in the payment of his said claim, for the reason that I was not able to ascertain the true amount, whether five or six hundred dollars, and for the further reason that all of said sum, whatever it may be, has not yet been paid by said Todd, though his note is outstanding for balance due. When the
774 balance is paid and the amount ascertained it should be a credit on the sum now in hands of said Todd as assets of said estate.

All of which is respectfully submitted.

D. H. REYNOLDS,
Special Master, &c.

(NOTE.—See note following the schedules.)

SCHEDULE "A."

List of claims against the estate of Junius W. Craig, dec'd, remaining unpaid, together with the interest and the credits on same, respectively, and showing balance due on same respectively, on the first day of July, A. D. 1872.

Two claims in favor of Wm. H. Todd, classed in the 4th
775 class of claims in the Chicot probate court, on the 25th day of July, 1859; one for $12,000, bearing interest at 10 per cent. from January 1, 1860, and the other for $35,181.60, and bearing 10

per cent. interest from April 3d, 1859. And on these claims the following payments have been made: On Feb. 3, 1860, $12,000; on the 20th of October, 1860, $5,000; and on March 16, 1868, $30,000, last being proceeds of sale of Yellow Bayou.

Amount of one claim	$12,000 00
Int. on same from Jan. 1, '60, to Feb'y 3, '60	106 66
	$12,106 66
Amount brought over	$12,106 66
Amount of one claim	35,181 60
Interest on same from Apr. 3, '59, to Feb'y 3, '60	2,931 75
Amount due Feb'y 3, 1860	50,226 01
Deduct payment	12,000 00
Balance due Feb, 3, 1860	38,226 01
Int. same from Feb. 3, '60, to Oct. 20, '60	2,728 46
Amount due Oct. 20, 1860	40,948 47
776 Deduct payment	5,000 00
Balance due Oct. 20, 1820	35,948 47
Int. on same from Oct. 20, '60, to Mar. 16, '68	26,621 65
Amount due March 16, 1868	62,570 12
Deduct payment	30,000 00
Balance due March 16, 1868	32,570 12
Int. on same from Mar. 16, 1868, to July 1, 1872	13,977 96
Balance due July 1, 1872	$46,548 08

One claim in favor of A. D. Kelly & Co., classed in the 3rd class of claims in the Chicot probate court, on the 30th day of April, 1859, and to bear interest (6 per cent.) from the 12th day of January, 1859; claim being for $45,607.76, with interest as aforesaid. The sum of $19,266.09 was paid on this claim on the 18th of Dec'r, 1865, as of Jan. 1, 1866, and it should also be credited with $2,300, as of Jan. 12, 1859, being amount of an acceptance included on the
777 $45,607.76, and, afterwards, in May, 1859, classed as a claim in the 4th class, and paid on 29th Feb'y, 1860. On 18 Dec., 1865, this claim was assigned by A. D. Kelly & Co. to W. W. Frazier, and afterwards (date not given) was, by W. W. Frazier, assigned to Wm. H. Todd, without recourse.

Amount of judgment	$45,607 76
Deduct claim since paid as above	2,300 00
Amount, after deducting, say	43,307 76
Int. on same from Jan. 12, '59, to Jan. 1, '66	17,837 78
Amount due Jan. 1, 1866	61,145 54
Deduct payment	19,266 09
Balance due Jan. 1, 1866	41,879 45
Int. on same from Jan. 1, '66, to July 1, 1872	15,432 81
Amount due July 1, 1872	$57,312 26

Two claims in favor of L. W. Peake, and classed in the 4th class of claims in the Chicot probate court, one on 25th April, 1859, for $5,897.97, and bearing from that date, say $291.16, at 6 per cent., and $5,606.81, at 10 per cent., and the other on 23d of April,
778 1860, for $3,250, to bear interest at 10 per cent. from that date. On first of these claims there are two credits, one on Feb'y 11, '60, for $300, and one on Mar. 26, '60, for $3,000.

Amount of first claim	$5,897 97
The interest from April 25, '59, to Feb'y 11, '60, is $459.33, and payment would not pay same.	
Int. on $291.16, at 6 per cent. from Apr. 25, '59, to Mar. 26, '60	16 06
Int. on 5,606.81, at 10 per cent. from —	515 54
Amount due Mar. 26, 1860	$6,429 57
Deduct payments, $300 and int., from Feb. 11, '60, to Mar. 26, '60, 302.30; $3,000 paid Mar. 26, 1860, 3,000	3,302 30
Bal. due Mar. 26, 1860	3,127 27
Int. on same from Mar. 26, '60, to July 1, 1872	3,834 92
Am't due July 1, 1872	6,962 19
Amount 2nd claim	3,250 00
Int. on same from Apr'l 23, '60, to July 1, 1872	3,961 37
Amount due July 1, 1872	7,211 37
Add am't 1st claim	6,962 19
Whole am't due July 1, 1872	$14,173 56

779 One claim in favor of R. A. Goodloe, and classed in the 4th class of claims in the Chicot probate court, on the 25th day of July, 1859, for $200, and bearing 6 per cent. interest from that date.

Amount of claim	$200 00
Int. on same from July 25, '59, to July 1, 1872	155 20
Am't due July 1, 1872	355 20

One claim in favor of C. W. Saunders, and classed in the 5th class of claims in the Chicot probate court, on the 25th day of July, 1860, for $160, and bearing 6 per cent. interest from that date, on July 17, '60.

Amount of claim	$160 00
Int. on same from July 17, 1860, to July 1, 1872	114 77
Amount due July 1, 1872	274 77

780 One claim in favor of Wm. P. Halliday, allowed by the Chicot probate court on the 8th day of May, 1868, for the sum of $8,983, and classed or ordered to be paid as expenses of administration, and bearing 6 per cent. interest from said May 8, 1868. An appeal was taken from the order allowing and ordering the payment of said claim, and the appeal is now pending in the Chicot circuit court.

Amount of claim as allowed	$8,983 00
Int. on same from May 8, 1868, to July 1, 1872	2,025 28
Am't due July 1, 1872	$11,008 28

781 One claim in favor of Emma J. Wright, allowed by Chicot probate court on 8th day of May, 1868, for the sum of $10,719.12, and ordered by said court to be paid as expenses of administration, same being a balance due her on settlement as executrix of said estate, and bearing interest at 6 per cent. from said 8th day of May, 1868. An appeal was taken from the judgment of said probate court, and said judgment was in all things affirmed in the Chicot circuit court, and same is now pending on appeal in supreme court of Arkansas.

Amount of claim as allowed	$10,719 12
Int. on same from May 8, 1868, to July 1, 1872	2,567 25
Am't due July 1, 1872	13,286 37

782 One claim in favor of J. M. Craig, as allowed by the Chicot probate court, on the 4th day of November, 1867, for the sum of $5,389.05, and ordered to be paid as expenses of administration, same being balance due him on his settlement as administrator, &c., of said estate, and bearing interest from said November 4, 1867, at 6 per cent. Part of this claim, say $3,404.50, has been assigned to Charles H. Carlton, and the remainder, say $1,984.55, has been assigned to Wm. B. Street, as I have been informed.

Amount of claim as allowed	$5,389 05
Int. on same from Nov. 4, '67, to July 1, '72	1,506 23
Am't due July 1, 1872	6,895 28

One claim in favor Mrs. A. C. George, ex'r'x, &c., and classed in

the 4th class of claims in the Chicot probate court, Oct. 31, 1859, for sum of $18,326.33, and bearing 10 per cent. interest from Dec'r 23, 1858. On April 6, '60, $8,000 was paid on this claim, and on Jan. 12, 1861, $4,000, and on Aug. 1, 1867, $13,470.54 in notes, one of which, then amounting to $460.34, was not secured by him on lands, and should be taken from said sum of $13,470.54, leaving as a credit at that time $13,044.20 only as the true credit.

Amount of note, &c	$18,326	33
Int. on same from Dec. 23, '58, to April 6, '60	2,356	92
Amount due April 6, 1860	$20,683	25
Deduct payment	8,000	00
Bal. due Ap'l 6, 1860	12,683	25
Int. on same from Apr. 6, '60, to Jan. 2, '61	937	13
Amount due Jan. 2, 1861	13,520	38
Deduct payment	4,000	00
Bal. due Jan. 2, 1861	9,620	38
Int. on same from Jan. 2, '61, to Aug. 1, '67	6,330	50
Amount due Aug. 1, '67	$15,950	88
Deduct payment	13,044	20
Bal. due Aug. 1, 1867	2,906	68
Int. on same from Aug. 1, '67, to July 1, '72	1,429	28
Am't due July 1, 1872	4,335	96

783

NOTE.—If the $13,044.20 is not credited, then there will be interest on $9,620.38 from Jan. 2, '61, to July 1, 1872, int. for that time being $11,060.34, and add $9,620.38, gives $20,680.72.

Two claims in favor of Lucy D. Weel, Joseph S. Woolfolk, and classed in the 4th class of claims in the Chicot probate court, on the 23rd day of January, 1860, one for $20,078.98, and bearing interest 10 per cent. from Ap'l 3, 1859, and the other for $16,666.66, with interest at 10 per cent. on $8,333.33 from Mar. 17, 1860, and 10 per cent. on remainder $8,333.33 from March 17, 1861. On these claims the following payments have been made, *i. e.*, $1,524 Feb. 2, '61, and $2,000 Mar. 9, 1861 (see ac. current of J. M. Craig, filed in 1866), and $1,501 July 12, 1866 (see report of J. Chapman as receiver), and on Mar. 16, 1868, the sum of $9,831, part of proceeds of sale of Bellevue and wild lands in Chicot (see report of J. C., receiver,) as payments, would at no time pay off the accumulated interest; the interest on debts and credits have been brought up to July 1, 1872.

784

Am't of first claim, &c.			$20,078 98
Int. on same from Ap'l 3, '59, to July 1, 1872			26,593 54
Am't of first note for $8,333.33			8,333 33
Int. on same from Mar. 17, 1860, to July 1, 1872			10,237 01
Amount of second note for $8,333.33			8,333 33
Int. on same from Mar. 17, 1861, to July 1, '72			9,407 05
785 Am't due July 1, 1872			$82,983 24
Am't f'st credit	$1,524		
Int. from Feb. 2, '61, to July 1, '72	1,739 47		
Am't 2d credit	2,000 00		
Int. from Mar. 9, '61, to July 1, '72	2,262 21		
Am't 3d credit	1,501 00		
Int. from July 12, '66, to July 1, '72	896 01		
Am't 4th credit	9,831 00		
Int. from Mar. 16, '68, to July 1, '72	4,219 15		
		23,972 84	
Balance due July 1, 1872			59,010 40

Two claims in favor of H. F. Walworth, classed in the 5th class of claims in the Chicot probate court, on the 22nd day of October, 1860, one for $8,890.28, and bearing 8 per cent. from April 21, 1859, and the other for $11,353.57, bearing 8 per cent. interest as follows: On $4,047.37 from April 21, 1860, and on $3,784.52 from April 21, 1861, and on $3,521.68 from April 21, 1862. And on January 21, 1867, there was received on same, $3,919.60 (see report of J. C., receiver), but not enough to pay interest then due.

786 Am't of first claim, &c.			8,890 28
Int. on same from April 21, '59, to July 1, '72			9,383 81
Am't 1st note in 2nd claim			4,047 37
Int. same from Ap'l 21, '60, to July 1, '72			3,948 48
Am't 2nd note in 2d claim			3,784 52
Int. on same from Ap'l 21, '61, to July 1, 1872			3,389 68
Am't 3d note in 2nd claim			3,521 68
Int. on same from Ap'l 21, '62, to July 1, '72			2,872 38
Am't due July 1, 1872			39,837 80
Am't credit Jan. 21, 1867	$3,910 60		
Int. from Jan. 21, '67, to July 1, '72	1,703 46		
		5,614 06	
Bal. due July 1, 1872			$34,223 74

One claim favor Albert Pike, Esq., as expenses of administration.

July 1, 1872 ..... $1,000 00

One claim in favor of Charles H. Carlton, as surviving partner of Chapman and Carlton, as allowed by me as special master in this

suit, for the sum of nine hundred and forty-five dollars, $900 for their fee in chancery suit, $68 in this court, and $45 for
787 costs paid by them while prosecuting the same as attorneys, to be credited with $101.34 purchase money for lands of estate bought by said Carlton as trustee at sale of receiver Chapman, on March 31st, 1868, and situated in Crittenden county, Arkansas, with interest on same from date of sale to July 1, 1872, amounting at that time to $128.13, and leaving a balance due on 1st July, 1872, $816.87.

Recapitulation.

5th class:	
Am't due estate H. F. Wolworth, July 1, '72	$34,223 74
" " C. W. Saunders, " "	274 77
	$34,498 51
4th class:	
Due W. H. Todd, July 1, 1872, (own claim)	46,548 08
" " " " (Kelly claim)	57,312 26
" L. W. Peak, " " (2 claims)	14,173 56
" R. A. Goodloe	355 20
Due Lucy D. & J. S. Woolfolk, (2 claims)	59,010 40
788 Due A. C. George, ex'r	4,335 96
Am't due on above claims, July 1, 1872	181,735 46
Due J. M. Craigs' assignees	6,895 28
" W. P. Halliday	11,008 28
" Emma J. Wright	13,286 37
" Albert Pike, Esq.	1,000 00
" Chas. H. Carlton, as., &c.	816 87
As expenses of administration	$33,006 80
Fourth class claims	181,735 46
Fifth class claims	34,498 51
	$249,240 77

SCHEDULE "B."

List of claims against the estate of Junius W. Craig, deceased, paid in full, with amount and date of allowance and without, and date of payment.

789 Claimants.	ALLOWANCES.		PAYMENTS.		Interest.
	Amounts.	Date of.	Date of.	Amount.	
Jno. C. O. South	837 00	Apr. 25, 1859	Mar. 7, 1860	895 59	58 59
Bales, Hyde & Co.	710 00	"	Feb. 28, 1860	745 50	35 50
Jno. Jannson	290 00	"	Feb. 25, 1859	290 00	
Peters, Milland & Co.	392 99	"	Feb. 28, 1860	414 45	21 46
R. M. Gaines	20 50	"	Ap'l 20, 1859	20 59	09
L. E. Craig	1,635 00	May 5, 1859	Jan. 17, 1860	1,880 25	24 25
A. D. Kelly & Co.	831 52	May 7, 1859	July 19, 1860	891 12	59 60
"	2,385 36	"	Feb. 29, 1860	2,541 75	156 38
T. McGuire	31 50	"	Oct. 10, 1859	32 34	84
Tappan & Hornor	460 30	"	May 7, 1860	482 54	22 24
E. Carder & Co.	1,886 60	July 25, 1859	Feb. 28, 1860	2,017 70	131 10
James Blackmore	54 00	"	July 27, 1859	54 00	
Thomas J. Smith	24 25	"	Feb. 2, 1860	25 33	1 07
Wm. J. Franklin	519 23	"	July 27, 1859	519 23	
T. B. Flournoy	3,468 50	Oct. 31, 1859	Mar. 16, 1860	3,000 00	
			Apr. 13, 1860	762 07	293 54
J. E. Burnside & Co.	432 29	"	Feb. 28, 1860	461 29	28 00
A. C. George, ex'r	937 68	Nov. 8, 1859	Nov. 12, 1860	999 40	61 72
	14,907 72			16,033 15	1,115 38
A. L. Shotwell & Son.	1,226 00	Jan. 23, 1860	Nov. 21, 1859	1,226 00	
James W. Branin	4,642 95	"	Nov. 17, 1859	4,642 95	
Louis Dutcher	65 65	"	Nov. 22, 1859	65 65	
Hays & Cooper	776 36	"	"	776 36	
Thos. D. McAllister	162 53	"	"	162 53	
Barnin & Sunners	26 99	"	"	26 99	
Glover & Co.	1,737 32	"	"	1,737 72	
790 R. R. Seissions	2,331 53	"	Jan. 19, 1860	2,331 53	
Farmers' Bank, Ky.	1,059 33	"	Feb. 7, 1860	1,072 66	13 33
Newton Craig	2,139 22	"	"	2,162 32	23 10
J. Harlson	48 00	July 9, 1860	Feb. 15, 1859	48 00	
Trice & Neal	37 36	"	"	37 36	
Jeff'n Clury	2,549 28	"	"	2,549 28	
A. D. Brasher	8 50	"	Ap'l 7, 1859	8 50	
William Dulty	499 91	"	May 25, 1859	499 91	
Jno. P. Craig	1,429 16	"	Feb. 15, 1859	1,429 16	
Saml. R. Walker	776 46	"	Mar. 15, 1860	776 46	
Real E-tate Bank	700 26	"	Ap'l 9, 1860	700 26	
Stephen Proctor	157 34	"	Feb. 21, 1859	157 37	03
Dennis McGrury	749 60	"	Feb. 15, 1859	749 60	
Warren Stone	50 00	July 24, 1860	Mar. 16, 1860	50 00	
	21,173 75			21,210 21	36 46
H. H. Collins	1,875 00	July 25, 1859	July 25, 1859	1,875 00	
Noland & Co.	542 63	Oct. 10, 1860	Oct. 10, 1860	542 63	
Gearly & Pearson	97 00	Jan. 23, 1860	Sept. 22, 1859	97 00	
Benjamin Jackson	60 00	Jan. 19, 1860	Aug. 12, 1859	60 00	

SCHEDULE "B."—Continued.

Claimants.	ALLOWANCES.		PAYMENTS.		Interest.
	Amounts.	Date of.	Date of.	Amount.	
a D. R. B. Genlee	8 00	Jan. 23, 1860		8 00	
a Kean, Stedman & Co.	942 77	July 10, 1860		942 77	
Lucy D. & J. S. Woolfolk	3,426 00	Oct. 31, 1859	Jan. 6, 1860	3,578 40	152 40
"	3,540 00	"	"	3,558 88	18 88
"	18,440 00	Jan. 23, 1860		500 00	
			Feb. 11, 1860	10,080 82	
			Mar. 17, 1860	7,156 70	
			Mar. 24, 1860	125 00	
			Nov. 3, 1860	1,500 00	
791			May 9, 1861	776 93	
				20,129 45	1,689 45
Geo. Hancock	3,497 24	Aug. 1, 1860	Dec'r 1, 1860	3,571 24	74 00
	32,428 64			34,363 37	1,934 73

Account on first page, say	16,033 15
" " second " "	21,210 21
" " this third page, say	34,363 37
	71,606 73

a NOTE.—I have not been able to ascertain date or amount of payment, but only that they are paid.

SCHEDULE "C."

The several claims paid in full, amounting to said sum of $71,606.73, were paid at divers times between Feb. 14, 1859, and the 10th day of March, 1861, and as to amounts making, say,
792 Mar. 1, 1860, an average date for such payments; and to said sum of $71,606.73 add 6 per cent. interest (nearly all the claims were bearing only 6 per cent. interest) from Mar. 1, 1860, to July 1, 1872, and we will have, say—

Amount of payments, &c.	$71,606 73
Int. on same from Mar. 1, '60, to July 1, '72	53,989 18
	$124,595 91

I (we) add claims in the 4th class, and consider A. D. Kelly & Co. claim unpaid	$181,735 46
To claim paid as of July 1, 1872	124,595 91
And we have, say	$306,331 37

And if we take $124,595.91 and the sum of $54,520.63, the amount before estimated to pay 30 cents on the dollar on the 4th class claims remaining due on July 1st, 1872, *i. e.*, $179,116.54, and it will pay
585 on the dollar on said $306,331.37, or if we take 415 on the
793 dollar of the $124,595.91 and add it to the $54,520.63, and
we will have a sum sufficient to pay 585 on the dollar on said 4th class claims remaining unpaid on July 1, 1872.

But of the claims that have been paid in full the greater portion of them were paid to persons who have since died or become insolvent, or to firms that have ceased to exist or become bankrupt, so that it would be impossible to recover any considerable portion of the sums that may have been overpaid on said claims. Of all the persons who could be compelled to refund, perhaps the only ones are those who still have a balance due them on their claims
in this suit, and of those holding 4th class claims
794 all except R. A. Goodloe have received payment on their
claims. Of those so receiving payments Wm. H. Todd, Lucy D. and J. S. Woolfolk, and A. C. George, ex'r, &c., have received greater portions on their claims than the others, but the last payments on the claims of W. H. Todd, and Lucy D. and J. S. Woolfolk were, by reason of liens the- held on the property of the estate, and the payment on the claim of Mrs. A. C. George, ex'r., &c., was in notes belonging to the estate, and from them it is not probable that she ever realized a great deal, as the only —— on them was wild lands in Phillips county, Ark's, and they are not valuable;
and, besides, she would have to pay the costs, &c., of collect-
795 ing whatever she may have received, so that all the claims
in the 4th class of claims, and considering the A. D. Kelly & Co. claim in that class, have quite the same equities in the funds for payment of same, except that of R. A. Goodloe, and, say, $80 more than the *pro rata* on said claims will place it on quite the some footing as to equities with all the other 4th class claims remaining unpaid.

SCHEDULE "D."

Assets in hands of Wm. H. Todd belonging to Est. Junius W. Craig, deceased, being amount of purchase-money for lands of said estate sold by receiver of said estate in March, 1868, less the sum properly paid out by him for said estate.

796	Amount due from said Todd on, say, the 25th of March, 1868, as an even day		$83,105 47
	Less amount for Yellow Bayou	$30,000 00	
	Less liens on Bellevue, &c.	9,831 00	
			39,831 00

Bal. in hands of Todd for payments, &c.		$43,374 47
Less am't paid Street & Craig, say	$442 54	
" " " note	250 00	
" " " Robinson, Lewis & Cracraft	1,000 00	
" " " McMurray, clerk, &c.	156 55	
" " " J. Chapman, rec. ex., &c.	355 75	
" " " to redeem lands, &c., Mrs. George	321 01	
Less am't paid Coms. of Receiver Chapman	1,000 00	
" " " cl'k McM., Oct., '68, No. 82, &c.	16 55	
		3,542 40
Bal. in hands of Todd, say, Mar. 25, '68		39,832 07
Amount bal. brought over, say		39,832 07
Int. on same at 6 per cent. from Mar. 25, '68, to July 1, '72		9,879 48
Am't in hands of Todd July 1, 1872		$49,711 55
Less am't paid Adams & Dixon	$500 00	
" " " D. H. Reynolds, att'y	250 00	
" " " C. W. Fry, receiver, &c.	250 00	
		[1,000 00
Bal. assets in hands Todd July 1, '72, say		$48,711 55

797 Assets in Louisville chancery court, in Louisville, Kentucky, resulting from sale of land belonging to estate Junius W. Craig, made by order of said court on 27th day of February, 1871, sold on six, twelve, eighteen, and twenty-four months' time, with interest from date of sale, and then amounting to, say, $49,284.22, to which must be added the interest at 6 per cent. from day of sale to, say, July 1, 1872, and which sum, reduced by the expenses of court, commissions, &c., will be for payment of the debts of said estate, and to be distributed by said chancery court or this court.

Am. sales, say	$49,284 22
Int. on same from Feb. 27, '71, to July 1, '72	3,975 59
	53,259 81
Am't in hands of W. H. Todd	$48,711 55
" " Louisville chancery court	53,259 81
	101,971 36

798 "SCHEDULE E."

Whole available assets, say	$101,971 36
Expenses of adm'r allowed, &c., say	33,006 80
Bal. after paying ex. of adm'r allowed, &c.	$68,964 56
Taking out for expenses of court, &c.	14,443 93
Am't for distribution, say	$54,520 63

If Kelly claim is paid as a 4th class claim, or—

Am't after paying ex. adm'r allowed, &c.	$68,064 56
Am't of Kelly claim	57,312 26
Bal. to pay expenses court, &c., say	$11,652 30

"SCHEDULE F."

Allowing payment of thirty cents on the dollar on all the 4th class claims against said estate, and considering the claim
799 of A. D. Kelly & Co., now owned by Wm. H. Todd, as a 4th class claim, and the payments would be as follows:

On claim of W. H. Todd, say	$13,964 42
" " " A. D. Kelly & Co., assigned, &c.	17,193 68
" " " L. W. Peake (2 claims), say	4,252 07
" " " R. A. Goodloe	106 56
" " " Lucy D. & J. S. Woolfolk (2 claims)	17,703 12
" " " A. C. George, ex'r, &c.	1,309 78
	$54,520 63

And after making the payments of thirty cents on the dollar on said 4th class claims, and including the A. D. Kelly & Co. claim as such, there would then remain due on them respectively as follows:

One claim of W. H. Todd, say	$32,583 66
" " " A. D. Kelly & Co.	40,118 58
" " " L. W. Peake	9,921 49
" " " R. A. Goodloe	248 64
" " " Lucy D. & J. S. Woolfolk	41,307 28
" " " A. C. George, ex'r, &c	3,035 18
	$127,214 83

800 If the claim of A. D. Kelly & Co., assigned to Wm. H. Todd, be paid as a third-class claim, there will then be left only the sum of $11,652.30 to pay expenses of court and any additional expenses of administration a sum too small to justify a distribution. This sum of $11,652.30 may possibly be increased by a small sum from property in Memphis, and also by a small sum from chancery suit No. 68 in this court.

The property in the city of Memphis, in the State of Tennessee, has been sold under a decree of the —— chancery court of said city, and brought only the sum of $23,500, and on a credit of ——, and —— months from the — day of ——, 1872, the day of sale.
801 And there are certain taxes due on said lands that may have to be paid out of the proceeds of said sale.

The sale was made at the instance of one Meath, who has a claim for some $18,000, as established in said court. Whether the other creditors will be allowed to share in the proceeds of said sale, or whether there will be any balance after paying the said claim of Meath, and the taxes, if they are paid out of such proceeeds, are questions that are still pending in said chancery court.

NOTE.—From a late decision in the Louisville chancery court, as appears reported in a newspaper, it seems that that court has perfected the claims of Wm. H. Todd and of A. D. Kelly &
802 Co., and has indicated that it will distribute the assets in its hands among those creditors before it. In that event there will be left only $48,711.55, now in hands of Wm. H. Todd, and after taking out $33,006.80 to be paid as expenses of administration, and we have left only $15,704 75, a sum too small to be distributed among the 4th class claims. Omitting the claim of Lucy D. and J. S. Woolfolk, we have $122,725.06 to be paid by $15,725.75, and this $15,725.75 will be reduced by expenses yet to be paid, and it can only be increased by possible sums to be obtained from suit 68 in this court, from Memphis chancery court, and from notes of C. A. Moore, in hands of Bradly and Sinrall, of Louisville, Ky.

REYNOLDS, *S. M. & E.*

803 Endorsed as follows: Filed in open court this 23rd day of Sept., A. D. 1872. H. W. Graves, clerk.

In the Chicot Circuit Court.

THE CREDITORS OF JUNIUS W. CRAIG, Deceased,
vs.
EMMA J. WRIGHT, Executrix of the Will of Junius W. Craig, his Heirs-at-law and Legatees, and others.

To the Honorable Henry B. Morse, judge of said court, in chancery sitting:

In pursuance of the order of this court, made at its October term, A. D. 1871, directing me, as receiver of the estate of Junius W. Craig, deceased, to collect together the assets of said estate, to employ
804 counsel to prosecute in this court the suit for foreclosure against Samuel R. Walker and others, and to continue the employment of Adams and Dixon, or employ other counsel in the prosecution of the suit of the creditors of said estate pending in one of the chancery courts in the city of Memphis.

I report that all the assets of said estate were accounted for in the report of Johnson Chapman, as receiver of said estate, adopted by

me as such receiver, and filed in this court on the 28th day of October, A. D. 1868, except $21.00 in Chicot county levee scrip, and one note of C. A. Moore, payable August 10th, 1860, for $1,792, and one note drawn by same, payable Aug. 16, 1861 (subject to a
805 credit of $1,029.50), $1.792, and the three notes of Samuel R. Walker for $6,000 each, and due, respectively, Dec. 26th, 1856, June 16th, 1857, and June 16th, 1858; that said levee scrip is worthless; that the two notes of C. A. Moore are in the hands of Messrs. Bodley and Simral, attorneys, of Louisville, Ky., for collection; that the three notes of Samuel R. Walker all in suit on the chancery side of this court in cause numbered 68.

I do further report that I have employed D. H. Reynolds, an attorney of this court, to prosecute the suit for foreclosure on the Walker notes in this court, and have paid him a retainer fee of $250 in said cause; that said cause is still pending in this court.

806 I do further report that I continued Messrs. Adams and Dixon, attorneys in Memphis, in the prosecution of the suit of the creditors of said estate, pending in one of the chancery courts in the city of Memphis, to subject to the claims of said creditors the real estate that was of Junius W. Craig, deceased, in said city of Memphis, and that I paid them a retaining fee of $500 in said cause by an order upon Wm. H. Todd, Esq.; that the property in the city of Memphis was sold, on the —— day of ——, A. D. 1872, by order of said chancery court, for the sum of $23,500.00, and that the rights of said creditors in said proceeds are yet undetermined in said court.

All of which is respectfully submitted,

C. W. FRY, *Receiver.*

807 Endorsed as follows: Filed this 23rd day of Sept., 1872. H. W. Graves, clerk.

At the fall term, 1872, of the Chicot circuit court, in chancery, on the 24th nay of Sept., 1872, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF ESTATE JUNIUS W. CRAIG
v. } 82.
EMMA J. WRIGHT, Ex'r.

Comes Albert Pike, attorney for the defense in this cause, and files his exceptions to the master's report filed at this term of court.

In the Chicot Circuit Court, at September Term, 1872.

808 THE CREDITORS OF JUNIUS W. CRAIG, Deceased,
vs.
EMMA J. WRIGHT, Executrix of the Will of Junius W. Craig, Deceased, his heirs-at-law, and others.

William H. Todd, one of the said creditors, excepts to the report of D. H. Reynolds, Esq., the special master in this case, so far as the said master thereby finds and reports "that said claim and allowance in favor of A. D. Kelly & Co. is not entitled, so far as the same

remains unpaid, to be paid in full out of the assets of the said estate, neither by virtue of the order of the Chicot probate court, nor by virtue of the agreement with said administrators at the time said collaterals were given up, nor by virtue of their right to retain the collaterals until their claim was paid in full, but that said claim
809 should be paid as a claim of the fourth class against the said estate," because the said Wm. H. Todd insists that the said A. D. Kelly & Co. were entitled to be paid their claim in full upon surrendering the said collaterals; that the order and judgment of the said probate court that their siad claim should be paid in full was valid, final, and conclusive, and not to be collaterally impeached; and that the right to be so paid was not waived or lost by delay in enforcing payment and by permitting the administrators to use the assets of the estate in paying other debts.

And because he avers that there was not made to the said master any proof of any agreement by which the said adjudged
810 right of payment in full was waived or surrendered, and as to this he prays and demands that this question of fact be re-examined by the court upon the evidence taken before the master.

And he prays that the said claim may be decreed to be paid in full.

WM. H. TODD,
By ALBERT PIKE,
His Attorney.

Endorsed as follows: Filed in open court this 24th day of September, 1882. H. W. Graves, clerk.

At the September term, 1872, of the Chicot circuit court, in chancery, on the 27th day of September, 1872, a day of said term of said court, among others, the following proceedings were had, viz:

Decretal Order.

811 THE CREDITORS OF JUNIUS W. CRAIG, Deceased, *vs.* EMMA J. WRIGHT, Executrix of the Will of James W. Craig, his heirs-at-law, and legatees of others. } 82.

Wm. H. Todd, one of the plaintiffs, having filed exceptions to so much of the master's report in this case as relates to the claim of A. D. Kelly & Co., comes also A. C. George, ex'r. of will of Horace George, deceased, by Wm. B. Street, her attorney, and takes her exceptions to so much of said report as relates to her claim against said estate, and leave is given to her said solicitor to file such her exceptions as of this day on any future day of this term, the same to be hereafter argued at another term, as also the said exceptions of said Wm. H. Todd.

And there being no further exceptions taken to said report by of the parties to this suit, it is therefore ordered, adjudged, and de-

creed that, as to all matters and things in the said report
812 considered, as to which no exceptions has been taken, the same be now confirmed, and stands as the findings and decision of this court.

And it is further ordered, adjudged, and decreed that the following amounts found by said report to be now due and payable as expenses of administration by said estate, be paid by the said Wm. H. Tood, out of the monies and assets of said estate in his hands, within seventy-five days from this date, without days of grace, and default thereof that payment be enforced by execution and by attachment for contempt.

To Julia J. Johnson, administratrix of the estate of Cyrus R. Johnson, to whom Albert Pike, now here, assign the same, the sum of five hundred dollars; to Albert Pike himself the sum of five hundred dollars; to Charles H. Carlton the sum of eight hundred & 16 dollars & 87 cents; to Charles H. Carlton and William
813 B. Street the sum due to J. M. Craig, and by him assigned in part to Chas. H. Carlton, and in part to Wm. B. Street, as in said report stated.

And it being now submitted to the court to determine the amount of compensation that should be allowed to said special master for his services up to this time, the court does fix said compensation at the sum of seven hundred and fifty dollars, which sum is to be ordered, adjudged, and decreed that said W. H. Todd do pay, within the same time as the other amounts whereof payment is above adjudged, and payment thereof to be enforced in the same manner.

And the matters herein undetermined are again referred to said Dan'l H. Reynolds, as special master, for the further report, to be made so soon as the same matters may be determined.

814 And no exceptions having been filed or taken to the report of the receiver, the same is in all things approved and confirmed.

And this cause is continued until the next term of this court.

Endorsed on margin of record: This decree is satisfied in full so far as the amount ordered to be paid to me, as one of the assignees of J. M. Craig, is concerned. This January 1, 1877. "Wm. B. Street, by J. G. B. Sims, attorney."

Exceptions to Report of Special Master.

Chicot Circuit Court. Fall Term, A. D. 1872.

THE CREDITORS OF J. W. CRAIG, Deceased, } 82.
v.
EMMA J. WRIGHT, Ex't'x, &c., *et al.* }

Comes Altona C. George, executrix, &c., by her attorneys, Street and Valentine, and excepts to the report of the special com-
815 missioner herein, so far as the said report relates to the claim against said estate and for cause states that the taxes were not paid, according to the agreement set forth in said report, on the lands which said estate agreed to deliver to said respondent free

from the incumbrance of taxes and tax titles, but respondent says that a large amount of taxes had accrued on said lands after the sale and before redemption, which amount was not paid up when redeemed from the purchasers of said lands, and are still a lien upon the same.

Respondent further states that she has been informed that the suits to foreclose the said supposed mortgages were instituted by the estate of the said J. W Craig, before the compromise and settlement between respondent and said estate, as stated in said report, and that some of said suits are still pending and unsettled.

816 And respondent is informed that some of said supposed mortgage liens have been defeated and the others are in progress of suit; and respondent states that it was not intended that any of said notes should be credited on respondent's claim unless the mortgages proved valid and the lands were transferred to respondent with good and valid title, and respondent prays that these her exceptions may be inquired into by the court, and that she have all proper relief in the premises.

A. C. GEORGE,
By STREET AND VALENTINE.

Endorsed as follows: Filed in open court October 2, 1872. H. W. Graves, clerk.

817 At the spring term, 1873, of the Chicot circuit court, in chancery, on the first day of April, 1873, a day of said term of said court, among others, the following proceedings were had, viz:

THE CREDITORS OF JUNIUS W. CRAIG, Deceased,
v.
EMMA J. WRIGHT, Executrix of the last Will of Junius W. Craig, his heirs-at-law, and legatees and others. } 82.

On this day on motion it is ordered adjudged, and decreed that the claim of $10,719.12 allowed in favor of Emma J. Wright, as executrix of the estate, in the Chicot probate court on May 8th, 1868, which allowance and judgment affirmed by the Chicot
818 circuit court, and by the supreme court of Arkansas, and now amounting to the sum of thirteen thousand eight hundred and sixty-seven and $\frac{82}{100}$ dollars, and which was adjudged to be paid as expenses of administration, be paid by the said William H. Todd out of the monies and assets of said estate in his hands on or before the fifteenth day of June, 1873, without days of grace, and that in default thereof that payment be enforced by execution and by attachment for contempt; and it is further ordered, adjudged, and decreed that said Wm. H. Todd pay out of said assets the costs in the prosecution of said claim, and that payment be enforced in
819 the same manner.

At the spring term, 1873, of the Chicot circuit court, in chancery, on the 4th day of May, 1873, a day of said term of said court, among others, the following proceedings were had, viz:

THE CREDITORS OF JUNIUS W. CRAIG
against
EMMA J. WRIGHT, Ex'r'x, &c.

On this day and on motion and by consent of parties, it is ordered, adjudged, and decreed that the sum of thirteen thousand eight hundred and sixty-seven and $\frac{87}{100}$ adjudged to be due on the claim of
Emma J. Wright against the said estate, on the first day of
820 April, 1873, and which was then ordered to be paid on the 15th day of June, 1873, by Wm. H. Todd out of the assets in his hands belonging to said estate, the sum of three thousand five hundred dollars, to be paid on said 15th day of June, 1873, and that the remainder of the amount due on said 15th day of June, 1873, to wit, the sum of ten thousand one hundred and seventy-one and $\frac{87}{100}$ dollars, together with ten per cent. interest from said 15th day of June, 1873, be paid on the 15th day of December, 1873, by said William H. Todd, out of said assets as aforesaid, and that said payments are to be made without days of grace, and that in default of
either of said, or any part thereof, that payment of same be
821 enforced by execution and by attachment for contempt of court.

And it is further ordered and decreed that on payment of said sums of money by said William H. Todd, that he be allowed as a credit on his settlement with the court for the assets in his hands belonging to said estate, the sum of $13,971.82 as of the 15th day of June, 1873, being the amount on that day of the claim hereby ordered to be paid, and that all liens now existing to secure payment of said assetts by said Todd, be and remain in full force until payment [of] said claim by the said Todd in pursuance of this decree.

822 Endorsed on margin of record: July 15, 1876. This decree has been paid in full, and satisfaction of the same is hereby entered. Eliza L. Wright, Ex'x of T. T. Wright, dec'd, assignee of said Emma J. Wright. D. H. Reynolds, att'y for assignee of said Emma J. Wright. Attest: H. W. Graves, clerk.

At the May term, 1873, of the Chicot circuit court, in chancery, on the 14th day of May, 1873, a day of said term of said court, among others, the following proceedings were had, viz:

THE CREDITORS OF JUNIUS W. CRAIG, Deceased,
v.
EMMA J. WRIGHT, Ex'x, &c. } 82.

823 On this day, on motion and by consent of parties, it is ordered, adjudged, and decreed that the claims of Wm. P. Halliday against the estate of Junius W. Craig, for the sum of $8,983.00 as allowed by the Chicot probate court on May 8th, 1868, and ordered to be paid as expenses of administration, and which judgment was affirmed in all things by the Chicot circuit court, at this its May term, 1873, and which claim with interest since May 8th, 1868, amounts to eleven thousand six hundred and eighty-nine dol-

lars, be paid by William H. Todd out of the assets of said estate in his hands, in three instalments, as follows: First, the sum of $3,897.00, together with ten per cent. per annum interest thereon from May 13th, 1873, be paid on the 30th day of January,
824 1874; and, second, the sum of $3,896.00, together with ten per cent. per annum interest thereon from May 15th, 1873, be paid as follows: The interest to January 30th, 1879, to be paid at that time, and the interest from January 30th to July 30th, 1879, to be paid on July 30th, 1879, and that said sum of $3,896.00, and the interest from July 30th, 1874, to January 30th, 1875, be paid on January 30th, 1875; and, third, the sum of three thousand eight hundred and ninety-six dollars, together with ten per cent. per annum interest thereon from May 15th, 1873, be paid as follows: The interest on said sum up to January 30th, 1874, to be paid on that day, and that the interest be paid semi-annually thereafter
825 until January 30th, 1876, when said principal sum of $3,896.00 with the interest then due, is to be paid, and that said payments of principal or interest be made without days of grace, and that in default of payment of any of said installments of principal or interest, then and in that case the whole of said claim of eleven thousand six hundred and eighty-nine dollars, with interest thereon as aforesaid that may remain unpaid, shall become due and payable, and may be enforced by execution or by attachment for contempt of court.

And it is further ordered and decreed that on the payment of said sum of eleven thousand six hundred and eighty-nine
826 dollars and interest as aforesaid by said Todd, that he shall have credit for said sum of $11,689.00, on settlement of the assets in his hands, as of the 15th day of May, 1873.

And it is further ordered that all liens to secure the payment of the assets now in the hands of said Todd remain in full force until the payment of said claim as herein ordered and decreed to be paid.

And it is further ordered and decreed that said Wm. H. Todd pay all costs in the prosecution of said claim, and that same be enforced by execution or by attachment.

At the Jannary term, 1874, of the Chicot circuit court of chancery, on the 22nd day of January, 1874, a day of said term of said court, among others, the following proceedings were had, viz:

827 CREDITORS OF ESTATE J. W. CRAIG *against* EMMA J. WRIGHT. } 82.

On motion this cause is continued.

At the September term, 1874, of the Chicot circuit court, in chancery, on the 15th day of September, 1874, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS J. W. CRAIG ESTATE
v.
EMMA J. WRIGHT. } 82.

By consent this cause stands continued.

At the October term, 1875, of the Chicot circuit court in chancery, on the 26th day of October, 1875, a day of said term of said court, among others, the following proceedings were had, viz:

828 CREDITORS ESTATE J. W. CRAIG
v.
EMMA J. WRIGHT. } 82.

Continued.

At the January term, 1876, of the Chicot circuit court, in chancery, on the 21st day of January, 1876, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF ESTATE J. W. CRAIG
against
EMMA J. WRIGHT, Ex'tx, and others. } 82.

This day came the parties, by their solicitors, and the exceptions filed on the — day of ———, 1872, to the report of the special master appointed herein, as far as the same changed the claim
829 of A. D. Kelly & Co., now owned by Wm. H. Todd, one of the parties to this suit from the third class, and from being a preferred claim to the 4th class, came on to be heard on the said report and exceptions and the testimony in the cause, and the same having been argued by counsel, on consideration whereof, the court doth find that the equity of the case is with the said Wm. H. Todd, the owner of said claim, and that the same is a preferred claim and of the third class.

It is therefore ordered, adjudged, and decreed that said exceptions be sustained, and that said claim be considered and held as a preferred claim and of the third class, and shall be paid as a third-class claim.

830 At the January term, 1876, of the Chicot circuit court, in chancery, on the 21st day of January, 1876, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF ES'T CRAIG
v.
EMMA J. WRIGHT. } 82.

On this day comes W. H. Todd, one of the parties to this action, and by attorney files his motion, asking that Charles W. Fry, the receiver appointed in this cause, be required to report at the next regular term of this court that the total amount of monies paid out by him for counsel fees, and all other expenses incurred by him as such

receiver, and that he be further ordered not to pay out any
831 more monies as such receiver for any purpose until the further order of this court; and the same being submitted to the court, it is ordered that said motion be granted, and a certified copy of this order be served on said Charles W. Fry.

Chicot Circuit Court. January Term, 1876.

WM. H. TODD *et al.*, Creditors of the Estate of Junius W. Craig, Deceased,
vs.
EMMA J. WRIGHT, as Executrix of the last Will and Testament of Junius W. Craig, Deceased, His Heirs at Law and Legatees.

Comes the plaintiff, Wm. H. Todd, by his attorneys, and moves the court to order and require of C. W. Fry, the receiver appointed
832 in the above action, to report, at the next regular term of this court, the total amount of monies paid out by him for counsel fees and all other expenses incurred by him as such receiver, and that he be further ordered not to pay out any more monies, as such receiver, for any purpose, until the further order of this court.

DOWNS AND ROBINSON,
Att'ys for W. H. Todd.

Endorsed as follows: Filed January 21st, 1876. H. W. Graves, clerk.

At the January term, 1876, of the Chicot circuit court, in chancery, on the 21st day of January, 1876, a day of said term of said court, among others, the following proceedings were had, viz.:

833 CREDITORS ESTATE J. W. CRAIG *against* EMMA J. WRIGHT. } 82.

On this day comes C. H. Carlton and R. A. Goodloe, by attorney, and moves the court for an attachment against W. H. Todd, for him to appear on the first day of the next term of this court, and show cause why he has not paid their respective claims against said estate, in accordance with a former order of this court; which motion is granted.

At the July term, 1876, of the Chicot circuit court, in chancery, on the 18th day of July, 1876, a day of said term of said court, among others, the following proceedings were had, viz.:

834 CREDITORS OF ESTATE J. W. CRAIG *against* EMMA J. WRIGHT, Ex'tx, &c.. *et al.* } 82.

Comes the receiver in the above-entitled cause, and files here in open court his report as such receiver.

In the Chicot Circuit Count, July Term, 1876.

To the Hon. T. F. Sorrels, judge:

The undersigned, as receiver of the assets of the estate of Junius W. Craig, deceased, and in compliance with an order of your honorable court, made at the Januaro term, 1876, in the suit of the Creditors of J. W. Craig against Emma J. Wright, requiring him to report all expenditures made by him, as such receiver, for
835 attorney's fees and other purposes, respectfully submits the following account:

Dr.

July 3, 1872.	To draft on W. H. Todd in favor of D. H. Reynolds, attorney's fees	250 00
" "	" draft on Todd, payable to order	250 00
" "	" draft on Todd in favor of A. H. Garland, attorney's fees	250 00
" "	" draft on Todd, payable to order	100 00
Oct. —, 1875.	To draft on Todd in favor of D. H. Reynolds for costs in supreme court	100 00
	To cash paid by Todd in part payment of expenses of trip to Memphis	15 00
		965 00

Cr.

Vouchers.

1.	By receipt of D. H. Reynolds for	250 00
2.	" " " H. W. Graves	24 10
3.	" " " " "	43 90
4.	" " " D. H. Reynolds	10 00
5.	" " " A. H. Garland	250 00
6.	" " " D. H. Reynolds	100 00
7.	" am't p'd self for survey and maps of Walker plantation	100 00
	" cash p'd expenses of trip to Memphis	30 00
	" am't to balance	157 00
		965 00

836 In addition to the above statement, Mr. Todd is entitled to a credit for $500 paid by him to Adams and Dixon, attorneys, at Memphis, Tennessee, for prosecuting suit on behalf of the estate in the Memphis chancery court, and also for the further sum of $100 paid by him to the same attorneys for appealing case to the supreme court of Tennessee, which amounts did not pass through the hands of the receiver, but were *were* paid out by his advice.

C. W. FRY, *Receiver, &c.*

Endorsed as follows: Filed July 10th, 1876. H. W. Graves, clerk.

At the July term, 1876, of the Chicot circuit court, in chancery, on the 24th day of July, 1876, a day of said term of said court, among others, the following proceedings were had, viz:

837 CREDITORS OF CRAIG ESTATE
v.
EMMA J. WRIGHT, EXTRX., &c. } 82.

Now on this — comes Wm. H. Todd, one of the creditors of the above estate, by his solicitors, Robinson and Downs, and files here in open court his motion to quash the execution issued against him on the first day of March, 1876, and the sale made thereunder.

Motion to Quash Execution and Sale, &c.

Chicot Circuit Court, July Term, 1876.

THE CREDITORS OF JUNIUS W. CRAIG, dec'd,
vs.
EMMA J. WRIGHT, Executrix, &c. } 82.

Comes Wm. H. Todd, and moves the court to quash the execution issued against him herein on the 1st day of March,
838 1876, and the sale made thereunder, and for cause states:

1st. That the decree in favor of Wm. P. Halliday in said cause was rendered at a time when the special master appointed to report on the liabilities and assets of said estate had reported the claim of A. D. Kelly & Co., owned at the time by said Todd as a 4th-class claim, when in truth and in fact said claim was a third-class claim and a preferred one, and ordered to be paid by the probate court of Chicot county, and thus a judgment against said estate superior to said claim and judgment of said Halliday, and entitled to be first paid; and that if said claim of said Todd be first paid out of the trust funds in his hands there will be nothing
839 left of said fund to which the said execution can or could apply.

2d. Because the execution herein was entitled Wm. P. Halliday *vs.* Emma J. Wright, executrix, &c., execution, when there was no such cause or judgment that said execution could follow, and when, if said execution was issued, it could not be against the executrix.

3rd. That said Todd was a trustee holding trust funds under bond for their proper disbursement, and that no execution could issue against him personally so as to reach his individual property.

4th. That said decree was not a lien on the Yellow Bayou plantation lands, the same being the lands under said execution, and so said lands could not be subjected to sale under decree and execution.

840 5th. That said decree was a judgment in *rem*, and applied to other and entirely different lands to those sold under said execution.

6th. That said lands were sold under and against the protest of said Todd made at the time of said sale by his attorney, and so the

purchaser, E. E. Boliver, was a purchaser, with notice that she could acquire no title.

7th. That since said sale under said execution, the said E. E. Bolivar, not having paid the purchase money, and execution has been issued against her and her security, and has been levied again on the said Yellow Bayou lands, and the same are now advertised to be sold by the sheriff of Chicot county on the — day of
841 ——, 1876, and said Todd moves that said last execution be garnishe-d.

J. F. ROBINSON,
F. DOWNS,
Atty's for Wm. H. Todd.

STATE OF ARKANSAS, } *Sct:*
County of Chicot, }

Benjamin H. Smith, the agent of said Wm. H. Todd, says that said Todd is now absent from the State of Arkansas; that he believes the statements of the annexed and foregoing motion are true.

BENJ. H. SMITH.

Sworn to before me, July 26th, 1876.

H. W. GRAVES, *Clerk.*

Endorsed as follows: Filed in open court July 24th, 1876. H. W. Graves, clerk, by Geo. T. Williamson, D. C.

842 At the July term, 1876, of the Chicot circuit court, in chancery, on the 27th day of July, 1876, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG } 82.
v.
EMMA J. WRIGHT, EX. }

On this day the motion to quash execution and set aside the sale of Yellow Bayou lands, filed on a former day of this term, coming on to be heard, after argument of counsel, the court being of the opinion that said motion should not be allowed, doth overrule the same.

At the January term, 1877, of the Chicot circuit court, in
843 chancery, on the 5th day of February, 1877, a day of said term of said court, among others, the following proceedings were had.

CREDITORS OF CRAIG EST. *vs.* EMMA J. WRIGHT.

Now on this day is filed in open court the report of the commissioner appointed to make sale of the lands therein mentioned and purchased by W. P. Halliday.

At the January term, 1877, of the Chicot circuit court, in chancery, on the 5th day of February, 1877, a day of said term of said court, among others the following proceedings were had, viz:

W. H. Todd
v.
W. P. Halliday. } 82.

844 Now on this day is filed in open court the petition of W. H. Todd to set aside the sale of Yellow Bayou plantation, heretofore made under an execution issued from the Chicot circuit court.

Motion.

Chicot Circuit Court. January Term, 1877.

Creditors Craig Est.
v.
Emma J. Wright. } 82.

Your petitioner, Wm. H. Todd, states that on the 16th day of March, 1868, he purchased amongst other lands of the estate of Junius W. Craig, deceased, the lands known as the Yellow Bayou plantation for the sum of $30,000, which were sold under a decree of this honorable court, by which it was directed that the sale of
845 the lands of said estate should be so made as to satisfy the plantation liens which existed on them; and said Todd says that the lands comprising said plantation were mortgaged to him to secure the payment of $48,000, and the sale of said lands comprising said plantation was made under said mortgage and lien as upon foreclosure, and was not a sale of the equity of redemption alone, but of that and the mortgage interest, that is to say of the whole —— of the lien.

2nd. Said Todd further states that by decree of this honorable court made at the October term, 1868, and on the 9th day of said term it was amongst other things in said cause ordered, adjudged, and decreed that certain expenses of administration of said estate, and among them the sum of $8,983 to said defendant, William
846 P. Halliday, be paid out of the purchase-money bid for the lands of said estate not mortgaged, if not paid out of the choses in action.

3d. Petitioner further states that he was permitted by this honorable court to retain in his possession the purchase-money bid — him for said lands of said estate purchased by him, to wit, $30,000, to be applied on his said mortgage debt, and the balance to be held subject to the order of court.

4th. Said Todd further states that the decree in favor of Wm. P. Halliday in said cause was rendered at a time when the special master appointed by this court to report on the liabilities and assets of said estate had reported the claim of A. D. Kelly & Co., owned at that time by your petitioner, as a 4th class claim, when in
847 truth and in fact said claim was a 3d class claim, and a preferred one, and ordered to be paid by the court of probate of Chicot county, and thus a judgment against said estate superior to said claim and judgment of said Halliday, and entitled to be first paid, and said claim of said A. D. Kelly & Co. now owned by said Todd, be first paid out of the trust funds in his hands, there will be

nothing left of said fund to which an execution on said decree in favor of said Halliday could apply.

5th. Said Todd further states that an execution issued in favor of said Halliday on the — day of ——, 18—, against said Todd, entitled Wm. P. Halliday *vs.* Emma J. Wright, ex'tr'x, &c., execution, which is claimed as having been issued on said decree.

848 6th. Petitioner further states that under said execution the said lands, comprising the said Yellow Bayou plantation or a greater part thereof, were sold on the — day of ——, 187–, and that E. E. Boliver became the purchaser thereof, and that she was purchaser with notice, having been notified by plaintiff that she could acquire no title thereunder.

6th. That afterwards said lands were again sold under execution against said E. E. Bolivar and her security, she having failed to pay the purchase-money under said first sale, and that said Halliday became the purchaser under protest of petitioner.

7th. That petitioner was a trustee holding trust funds under bond for their proper disbursement, and that no execution could issue against him personally, so as to reach his individual prop-

849 erty; and that under the terms of said original decree said Yellow Bayou plantation could not be sold to pay said allowance to said Halliday, as there was no lien thereon, and said sales were void.

8th. That said *said* decree was a judgment *in rem*, and applied to other and entirely different lands to those sold under said executions.

9th. That said lands were sold under and against the protest of said Todd, made at the time of said sale to said E. E. Boliver was made, and under the protest of your petitioner at the time said sale to Wm. P. Halliday was made.

Wherefore your petitioner prays that said sales be, each and every, set aside.

J. F. ROBINSON,
Attorney for Wm. H. Todd.

850 STATE OF ARKANSAS, } *sct:*
County of Chicot, }

James F. Robinson states that he is attorney of the said petitioner, who is a non-resident of Chicot county and State of Arkansas, and now absent from said State, and that affiant believes the statements of the foregoing petition are true.

J. F. ROBINSON.

Subscribed and sworn to before me this 6th day of February, 1877.

H. W. GRAVES, *Clerk,*
By GEO. T. WILKINSON, *D. C.*

Endorsed as follows: Filed in open court February 6th, 1877.

H. W. GRAVES, *Clerk,*
By GEO. T. WILKINSON, *D. C.*

STATE OF ARKANSAS, *County of Chicot:*

The State of Arkansas to the sheriff of Chicot county, Greeting:

851 You are commanded that of the estate of William H. Todd you cause to be made the sum of eleven thousand six hundred and eighty-nine dollars, which William P. Halliday, late in our Chicot circuit court, in chancery, recovered against him for money due said Halliday from the estate of Junius W. Craig, deceased, as expenses of administration, and decreed to be paid out of the assets of said estate in the hands of said Wm. H. Todd, and payment thereof to be enforced by execution against him, the said William H. Todd, the said eleven thousand six hundred and eighty nine dollars was decreed to be paid in three installments, as follows: first, the sum of $3,897.10, together with ten per cent. per annum interest thereon from May 15th, 1873, be paid on the 30th day of January, 1874; and, second, the sum of $3,896, together with ten per cent. per annum interest
852 thereon from May 15th, 1873, be paid as follows: The interest to January 30th, 1874, to be paid at that time, and the interest from January 30th, 1874, to be paid on July 30th, 1874, and that said sum of $3,896 and the interest from July 30th, 1874, to January 30th, 1875, be paid on January 30th, 1875; and, third, the sum of three thousand eight hundred and ninety-six dollars, together with ten per cent. per annum interest thereon from May 15th, 1873, be paid as follows: The interest on said sum up to January 30th, 1874, to be paid on that day, and that the interest be paid semi-annually thereafter until January 30th, 1876, when said principal sum of $3,896, with the interest then due, is to be paid, and that said payments of principal or interest be made without days of grace,
853 and that in default of payment of any of said installments of principal or interest, then and in such case the whole of said claim of eleven thousand six hundred and eighty-nine dollars, with interest thereon as aforesaid that may remain unpaid, shall become due and payable, and may be enforced by execution, with interest thereon from the 15th day of May, 1873, until paid, as above set forth; also the sum of $——, which was adjudged to the said Wm. P. Halliday for his costs in this matter expended; and that you have said sums of money within sixty days to render to the said Wm. P. Halliday for his debt, interest, and costs aforesaid.

Witness my hand and the seal of the circuit court hereto affixed this 1st day of March, A. D. 1876.

[SEAL.] H. W. GRAVES, *C'lk C't C't, in Chan.*,
By GEO. T. WILKINSON, *D. C.*

854 MARCH 1*st*, 1876.

The within execution is subject to the following credits for money paid on said decree, that is to say: $1,173.35 of date April 1st, 1874, one thousand dollars of date April 20th, 1874, $688.95 of date April 1st, 1875, $594.68 of date May 25th, 1875, and two thousand dollars of date June 5th, 1875. D. H. REYNOLDS,
Attorney for Halliday.

Attest: H. W. GRAVES, *C'lk.*,
By GEO. T. WILLIAMSON, *D. C.*

Endorsed: "To sheriff of Chicot county. Returnable in 60 days from March 1st, 1876. Decree. May term, 1873. Ch'cy Rec. 'D,' page 77." Original amount of decree, $11,689.00, subject to credits named within. Int. from May 15th, '73, as set forth herein.
855 Clerk's costs, 8.80; sheriff's costs, $210.67.

Sheriff's Return.

This writ, which came to hand on the day of issuance, I duly executed by levying on the following-described lands, to wit: Fr'l Sec. 12, N. fr'l ½ Sec. 11; undivided half of south of section 11; fractional section 14; S. E. part of N. E. ¼ Sec. 10; section 23; S. W. ¼ Sec. 13; E. ½ of N. W. ¼ Sec. 24; E. ½ of N. E. ¼ Sec. 22; and E. ½ S. E. ¼ Sec. 15, all in township 15 south, of range two west, and advertised the same according to law for sale on Thursday, the 6th day of April, 1876; and on said 6th day of April I offered said lands for sale at public auction, at the front door of the court-house of Chicot county, within the hour for judicial sales, and sold
856 the following portions of said lands, as shown by the annexed plat list, marked Exhibit "A," the total amounting to $9,755 dollars, sufficient to cover amount of the execution, including debt, interest, and cost. Said lands were sold on a credit of three months, as shown by the annexed advertisement of sale, which is herewith filed and made part of this return this April 6th, 1876.

S. H. HOLLAND, *Sheriff*,
By T. E. WILLING, *D. S.*

Said lands were sold to Evelyn E. Bolivar, she executing bond for the same with William H. Todd as surety, which bond is herewith returned.

S. H. HOLLAND, *Sheriff*,
By T. E. WILLING, *D. S.*

857 *Note of Clerk.*

The copy of advertisement mentioned in the foregoing return of the sheriff has been detached from the return.

GEORGE T. WILKINSON, *Clerk*,
By W. W. WILKINSON, *D. C.*

STATE OF ARKANSAS, *County of Chicot:*

The State of Arkansas to the sheriff of Chicot county, Greeting:

851 You are commanded that of the estate of William H. Todd you cause to be made the sum of eleven thousand six hundred and eighty-nine dollars, which William P. Halliday, late in our Chicot circuit court, in chancery, recovered against him for money due said Halliday from the estate of Junius W. Craig, deceased, as expenses of administration, and decreed to be paid out of the assets of said estate in the hands of said Wm. H. Todd, and payment thereof to be enforced by execution against him, the said William H. Todd, the said eleven thousand six hundred and eighty nine dollars was decreed to be paid in three installments, as follows: first, the sum of $3,897.10, together with ten per cent. per annum interest thereon from May 15th, 1873, be paid on the 30th day of January, 1874; and, second, the sum of $3,896, together with ten per cent. per annum interest

852 thereon from May 15th, 1873, be paid as follows: The interest to January 30th, 1874, to be paid at that time, and the interest from January 30th, 1874, to be paid on July 30th, 1874, and that said sum of $3,896 and the interest from July 30th, 1874, to January 30th, 1875, be paid on January 30th, 1875; and, third, the sum of three thousand eight hundred and ninety-six dollars, together with ten per cent. per annum interest thereon from May 15th, 1873, be paid as follows: The interest on said sum up to January 30th, 1874, to be paid on that day, and that the interest be paid semi-annually thereafter until January 30th, 1876, when said principal sum of $3,896, with the interest then due, is to be paid, and that said payments of principal or interest be made without days of grace,

853 and that in default of payment of any of said installments of principal or interest, then and in such case the whole of said claim of eleven thousand six hundred and eighty-nine dollars, with interest thereon as aforesaid that may remain unpaid, shall become due and payable, and may be enforced by execution, with interest thereon from the 15th day of May, 1873, until paid, as above set forth; also the sum of $——, which was adjudged to the said Wm. P. Halliday for his costs in this matter expended; and that you have said sums of money within sixty days to render to the said Wm. P. Halliday for his debt, interest, and costs aforesaid.

Witness my hand and the seal of the circuit court hereto affixed this 1st day of March, A. D. 1876.

[SEAL.] H. W. GRAVES, *Clk C't C't, in Chan.*,
By GEO. T. WILKINSON, *D. C.*

854 MARCH 1*st*, 1876.

The within execution is subject to the following credits for money paid on said decree, that is to say: $1,173.35 of date April 1st, 1874, one thousand dollars of date April 20th, 1874, $688.95 of date April 1st, 1875, $594.68 of date May 25th, 1875, and two thousand dollars of date June 5th, 1875.

D. H. REYNOLDS,
Attorney for Halliday.

Attest: H. W. GRAVES, *Clk.*,
By GEO. T. WILLIAMSON, *D. C.*

Endorsed: "To sheriff of Chicot county. Returnable in 60 days from March 1st, 1876. Decree. May term, 1873. Ch'cy Rec. 'D,' page 77." Original amount of decree, $11,689.00, subject to credits named within. Int. from May 15th, '73, as set forth herein.
855 Clerk's costs, 8.80; sheriff's costs, $210.67.

Sheriff's Return.

This writ, which came to hand on the day of issuance, I duly executed by levying on the following-described lands, to wit: Fr'l Sec. 12, N. fr'l ½ Sec. 11; undivided half of south of section 11; fractional section 14; S. E. part of N. E. ¼ Sec. 10; section 23; S. W. ¼ Sec. 13; E. ½ of N. W. ¼ Sec. 24; E. ½ of N. E. ¼ Sec. 22; and E. ½ S. E. ¼ Sec. 15, all in township 15 south, of range two west, and advertised the same according to law for sale on Thursday, the 6th day of April, 1876; and on said 6th day of April I offered said lands for sale at public auction, at the front door of the court-house of Chicot county, within the hour for judicial sales, and sold
856 the following portions of said lands, as shown by the annexed plat list, marked Exhibit "A," the total amounting to $9,755 dollars, sufficient to cover amount of the execution, including debt, interest, and cost. Said lands were sold on a credit of three months, as shown by the annexed advertisement of sale, which is herewith filed and made part of this return this April 6th, 1876.

S. H. HOLLAND, *Sheriff*,
By T. E. WILLING, *D. S.*

Said lands were sold to Evelyn E. Bolivar, she executing bond for the same with William H. Todd as surety, which bond is herewith returned.

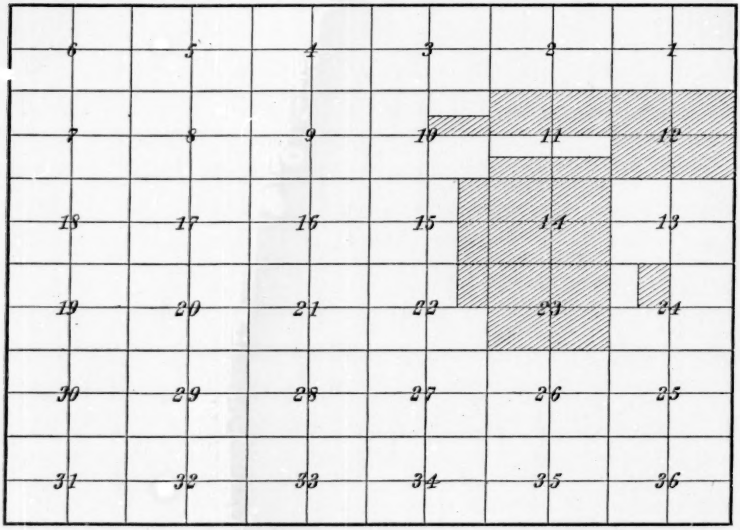
S. H. HOLLAND, *Sheriff*,
By T. E. WILLING, *D. S.*

857 *Note of Clerk.*

The copy of advertisement mentioned in the foregoing return of the sheriff has been detached from the return.

GEORGE T. WILKINSON, *Clerk*,
By W. W. WILKINSON, *D. C.*

EXHIBIT "A."



858 *Bond of Evelyn E. Bollivar.*

Evelyn E. Bolivar, principal, and William H. Todd, surety, do bind ourselves to pay to William P. Halliday, within three months from the date hereof, the sum of nine thousand seven hundred and fifty-five dollars, with interest thereon, according to the terms of the decree, from this date, being the purchase-money of the following-described tracts or parcels of land:

Ne ¼ of ne ¼	Sec. 12,	township 15,	2 west		$475 00
Se ¼ of ne ¼	"	"	"		400 00
Nw ¼ of ne ¼	"	"	"	}	2,500 00
Sw ne	"	"	"	}	
Ne ¼ of se ¼	"	"	"		400 00
Se ¼ of se ¼	"	"	"		150 00
Nw ¼ of se ¼	"	"	"		200 00
Sw ¼ of se ¼	"	"	"		200 00
Ne ¼ of nw ¼	"	"	"	}	750 00
Se ¼ of nw ¼	"	"	"	}	
Nw ¼ of nw ¼	"	"	"	}	350 00
Sw ¼ of nw ¼	"	"	"	}	
Ne ¼ of sw ¼	Sec. 12,	township 15,	2 west		300 00
859 Se ¼ of sw ¼	"	"	"		300 00
Nw ¼ of sw ¼	"	"	"		300 00
Sw ¼ of sw ¼	"	"	"		500 00
Ne ¼ of ne ¼	" 11,	"	"	}	400 00
Se ¼ of ne ¼	"	"	"	}	

Nw ¼ ne ¼	Sec. 11,	township 15,	2 west	}	350 00
Sw ¼ ne ¼	"	"	"	}	
Ne ¼ nw ¼	"	"	"	}	350 00
Se ¼ nw ¼	"	"	"	}	
Nw ¼ nw ¼	"	"	"	}	350 00
Sw ¼ nw ¼	"	"	"	}	
Se ¼ sw ¼	"	"	"		400 00
Undivided ½ ne ¼ of se ¼	Sec. 11,	township 15,	2 west		150 00
" ½ se ¼ of se ¼	"	"	"		150 00
" ½ nw ¼ of se ¼	"	"	"		150 00
" ½ sw ¼ of se ¼	"	"	"		150 00
" ½ ne ¼ of sw ¼	"	"	"		150 00
" ½ nw ¼ of sw ¼	"	"	"		230 00

Which were this day sold by S. H. Holland, sheriff of Chicot county, Arkansas, in satisfaction of an execution which issued from the office of the clerk of the Chicot circuit court on the first day of March, 1876, in favor of said William P. Halliday, against William
860 H. Todd, for the sum of eleven thousand six hundred and eighty-nine dollars ($11,689.00), debt and interest, with costs, less certain credits endorsed on said execution, and leaving due this day $9,261.10.

Given under our hands, this 6th day of April, 1876.

E. E. BOLIVAR. [SEAL.]
WM. H. TODD. [SEAL.]

Attest: S. H. HOLLAND, *Sheriff*,
By T. E. WILLING, *Deputy*.

STATE OF ARKANSAS, }
Chicot County, } *ss*:

The State of Arkansas to the sheriff of Chicot county, Greeting:

You are commanded that of the estates of Evaline E. Bolivar and Wm. H. Todd you cause to be made the sum of nine thousand
861 two hundred and sixty-one dollars and ten cents, which the-owe to William P. Halliday on a sale bond executed by them on the 6th day of April, 1876, with interest thereon from the 6th day of April, 1876, until paid, also the sum of thirty-five dollars for the costs, which bond is on file in the office of the clerk of the Chicot circuit court; and that you have said sum of money within sixty days, to render to the said Wm. P. Halliday his debt, interest, and costs aforesaid.

In witness whereof, I have hereto set my hand and affixed the seal of said court, this 11th day of July, 1876.

[SEAL.] H. W. GRAVES, *Clerk*,
By GEO. T. WILKINSON, *D. C.*

862 Endorsed: "Original judgment. May term, 1873. Chey. Rec. "D," page 77. To sheriff of Chicot county. Returnable in 60 days from July 11th, 1867. Debt, $9,261.10; int. from April 6, '76, $319.00; costs, 35.00; this ex., &c., 1.00; Co. t'x, 50c. Sheriff's

costs: This ex., 24.85; 2 per cent. com. on $9,070, 181.40 = $9,822.85. No surety of any kind is to be taken in this case. Attest: H. W. Graves, clerk, by Geo. T. Wilkinson, D. C.

Sheriff's Return.

Come to hand at 10 o'clock a. m., July 15, 1876.

S. H. HOLLAND, *Sheriff*,
By T. E. WILLING, *D. S.*

And on same day I levied on the following-described lands and advertised them for sale on 14th of August, 1876, to wit: S. W. ¼ sec. 9, S. E. ¼ sec. 10, E. fr'l ½ of N. E. ¼ sec. 10, N. fr'l ½ sec. 11, S. ½ sec. 11, fr'l sec. 12, sec. 13, sec. 14, S. ½ sec. 15, N. E. ¼ sec. 17, S. E. ¼ sec. 17, S. E. ¼ sec. 21, S. ½ sec. 22, E. ½ N. E. ¼ sec. 22,
863 sec. 23, E. ½ N. W. ¼ sec. 24, N. ½ sec. 26, S. W. ¼ sec. 26, and sec. 29, all in township 15 S., R. 2 west; and on the said tenth day of August, 1876, between the hours for judicial sales, I did offer and sell to W. P. Halliday all the right, title, and interest of said Wm. H. Todd and Evaline E. Bolivar in and to the before-mentioned lands for the total price and sum of $9,070.00, and I executed to him a certificate of purchase for same. This Aug. 14, 1876.

S. H. HOLLAND, *Sheriff.*

Sheriff's fees This ex-levy, 75c.; posting notices, 75c.; mileage and ferriage on same, 10.50; ret., 75; printing fees, $10.00, = $22.75; 2 per cent. com. on $9,070, $181.40; making certificate, 50c., $204.85.

STATE OF ARKANSAS, }
County of Chicot, } *ss:*

864 The State of Arkansas to the sheriff of Chicot county, Greeting:

You are commanded that of the estates of Evelyn E. Bolivar and Wm. H. Todd you cause to be made the sum of seven hundred and fifty-two dollars and eighty-five cents, which they owe to Wm. P. Halliday, as a balance on a sale-bond executed by them on the 6th day of April, 1876, with 10 per cent. interest thereon from the 14th day of August, 1876, until paid, also the sum of —— dollars for the costs, which bond is on file in the office of the clerk of Chicot circuit court, and that you have said sum of money within sixty days to render to the said William P. Halliday, his debt, interest, and costs aforesaid.

In witness whereof, I have hereunto set my hand and affixed
865 the seal of said court, this 19th day of August, 1876.

[SEAL.] H. W. GRAVES, *Clerk*,
By GEO. T. WILKINSON, *D. C.*

Endorsed: To sheriff of Chicot county. Returnable in sixty days from Aug. 19, '76. Bal. debt, $752.85; int. 10 per cent. from Aug. 14, '76, 9.30; this ex., 75c.; Co. taxes, 50c. = 763.40; sheriff's fees, 33.31 = 796.71. Recorded Book —, 314. No stay of ex. of

any kind will be taken in this case. Attest: H. W. Graves, cl'k, by Geo. T. Williamson, D. C.

Return of Sheriff.

This execution came to my hands on the 19th day of August, at 5 p. m.

S. H. HOLLAND, *Sheriff.*

And I have this 28th day of August, 1876, levied on the interest of Wm. H. Todd in the following described lands, to wit: S ½ N.W. ¼ sec. 6, S. W. ¼ sec. 6, N. W. ¼ sec. 7, S. W. ¼ sec. 7, all in township 15 S., R. 1 west.

S. H. HOLLAND, *Sheriff.*

866 And I did, on the 28th day of September, 1876, offer said lands for sale according to law, and B. H. Smith became the purchaser at the price and sum of $796.71, and this execution is returned satisfied.

S. H. HOLLAND, *Sheriff.*

Sheriff's fees: Levy, 75c; mileage, 60c; posting, 75c; mileage and ferriage on same, 5.20; printing bill, 10.00; 2 per cent. com. on 763, 15.26 = 32.56; return, 75c, = $33.31.

Attached to execution:

LAW OFFICE OF D. H. REYNOLDS,
LAKE VILLAGE, ARK., *Sept.* 30, 1876.

Received of S. H. Holland, sheriff, &c., the draft of Benj. H. Smith on First National Bank of Memphis, Tenn., in his favor for $796.71, being amount of execution in favor of Hal'iday *v.* Todd, &c., on which sale was had on Sept. 28, 1876, say $762.15 debt, and $34.56 costs, &c., and upon its payment to be in satisfaction of said execution.

D. H. REYNOLDS.

Endorsed: This draft has been paid Oct. 14, 1876. D. H. Reynolds.

Chicot Circuit Court. In Chancery.

867 WM. P. HALLIDAY *vs.* EMMA J. WRIGHT, Ex'tr'x, &c. } Execution.

I, S. H. Holland, sheriff of Chicot county, Arkansas, do hereby certify that on the 1st day of March, 1876, there was issued and to me directed, by the clerk of the Chicot circuit court, an execution in favor of Wm. P. Halliday against Wm. H. Todd, and that in pursuance of said execution I levied upon the following described tracts of land, to wit: Fr'l sec. 12, W. fr'l ½ sec. 11, und. ½ of S. ½ sec. 11, fr'l sec. 14, S. E. part of N. E. ¼ sec. 10, sec. 23, S. W. ¼ sec. 13,

E. ½ N. W. ¼ sec. 24, E. ½ N. E. ¼ sec. 22, and E. ½ of S. E. ¼ sec. 15, all in township 15 S., R. 2 west; and that I advertised said lands for sale (according to law) on the 6th day of April, 1876, and on said
868 6th day of April I sold said lands at public auction to E. E. Bolivar for the price and sum of $9,755, and that said E. E. Bolivar executed her bond for said purchase-money, with Wm. H. Todd as security, and that on the 11th day of July, 1876, there was issued to me, by said clerk of the Chicot circuit court, an execution on said sale-bond, and that in pursuance thereof I levied upon the following described lands, to wit: S. W. ¼ sec. 9, S. E. ¼ and E. fr'l ½ of N. E. ¼ sec. 10, N. fr'l ½ sec. 11, S. ½ sec. 11, fr'l sec. 12, sec. 13, sec. 14, S. ½ sec. 15, N. E. ¼ sec. 17, S. E. ¼ sec. 21, S. ½ sec. 22, E. ½ N. E. ¼ sec. 22, sec. 23, E. ½ N. W. ¼ sec. 24, N. ½ sec. 22, sec. 23, E. ½ N. W. ¼ sec. 24, N. ½ sec. 26, S. W. ¼ sec. 26, and sec. 27, all in town. 15 S., R. 2 west; and that I advertised the same to be sold on the 14th day of August, 1867, and that I did, on said day, sell all the right, title, and interest of
869 Wm. H. Todd and E. E. Boliver in and to said above-mentioned lands to Wm. P. Halliday for the price and sum of ($9,070) nine thousand and seventy dollars, and that on the 19th day of August, 1876, there was issued to me, by said clerk of said Chicot circuit court, an alias execution on the above-mentioned sale-bond, and that, in pursuance of said last-mentioned execution, I levied upon the following-described lands, to wit, S. ½ N. W. ¼ sec. 6, S. W. ¼ sec. 6, W. ½ sec. 7, T. 15 S., R. 1 W., and advertised the same for sale, on the 28th day of Sept., 1876, and on said 28th day of September I sold all the right, title, and interest of said Wm. H. Todd in and to said above-described lands to Wm. P. Halliday for the price and sum of $796 71/100, being the balance of
870 debt mentioned in said bond, with costs and interest, and I do so hereby certify.

S. H. HOLLAND, *Sheriff.*

The three executions mentioned herein are herewith submitted.

S. H. HOLLAND, *Sheriff.*

At the January term, 1878, of the Chicot circuit court, in chancery, on the 2d day of February, 1878, a day of said term of said court, among others, the following proceedings were had, to wit:

CREDITORS OF JUNIUS W. CRAIG
v.
EMMA J. WRIGHT, Ex'x, &c. } 82.

It appearing to the court that exception was taken to the order of the court made at the July term, 1876, on the 27th day of
871 July, 1876, a day of said term, to the order of the court overruling the *the* motion of William H. Todd to quash the execution issued against him herein on the 1st day of March, 1876, and the sale made thereunder; and it further appearing to the court

that said exceptions had not been noted on the record, it is ordered that the same be entered now as of said 27th day of July 1876.

At the January term, 1878, of the Chicot circuit court, in chancery, on the 2d day of February, 1878, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF J. W. CRAIG
vs.
EMMA J. WRIGHT, Ex'tr'x, &c.

872 It is ordered that the petition of Wm. H. Todd, filed herein on the 6th day of February, 1877, be continued without prejudice.

At the July term, 1879, of the Chicot circuit court, in chancery, on the 17th day of July, 1870, a day of said term of said court, among others, the following proceedings were had, viz:

CREDITORS OF CRAIG EST.
against
EMMA J. WRIGHT. } 82.

Ordered by the court that D. H. Reynolds, Esq., as special master heretofore appointed in the above-entitled cause, be and he is hereto required to file his report as such master on or before the next term of this court.

873 At the January term, 1880, of the Chicot circuit court, in chancery, on the 23rd day of January, 1880, a day of said term of said court, among others, the following proceedings were had, viz:

Decree.

THE CREDITORS OF JUNIUS W. CRAIG, Deceased,
v.
EMMA J. WRIGHT, Ex't., &c., and others. } 82.

This day came the parties herein by their attorneys, and the death of Wm. H. Todd being suggested, and it being further suggested that L. H. Springer, an attorney of this court, has qualified as administrator of his estate, it is thereupon ordered and decreed by the court that said L. H. Springer, as such administrator, be made
874 a party hereto in the place and stead of his said intestate; and the same is accordingly done, and said Springer, as such administrator, enters his appearance as party hereto.

And it appearing to the court that the report of Charles Fry, the receiver in this cause, was filed on July 10, 1876, and that no exceptions thereto have been filed, and that there were then in his hands the sum of $157.00, and that no compensation has been allowed him as such receiver, and that said sum of $157.00 would be a fair and reasonable compensation for his services as receiver herein, it is therefore ordered, adjudged, and decreed that said receiver be allowed said sum of $157.00 as compensation for his
875 services, and that he retain said sum now in his hands, and

that his report be, and the same is hereby, in all things approved and confirmed.

And it appearing that all the assets of said estate are in money, and in the hands of parties to this suit; and that the services of a receiver will no longer be needed herein, it is therefore ordered, adjudged, and decreed that the said C. W. Fry, as such receiver, be relieved and discharged.

At the January term, 1880, of the circuit court, in chancery, on the 23d day of January, 1880, a day of said term of said court, among others, the following proceedings were had, viz:

876 THE CREDITORS OF ESTATE OF JUNIUS W. CRAIG, Deceased, *against* EMMA J. WRIGHT, Ex'tx of the Will of Junius W. Craig, Deceased, his Heirs-at-Law, and Legatees, and others. } 82.

This day comes into court Daniel H. Reynolds, heretofore appointed special master in this case, and files his report of matters undetermined herein since the filing of his first report in September, 1872, and the court having examined said report, and there being no exceptions taken to it by any of the parties to this suit, it is therefore ordered, adjudged, and decreed that as to all the matters and things in said report considered be now confirmed
877 and stand as the findings and decision of the court.

And it is further ordered, adjudged, and decreed that the following amounts found by said report to be now due and payable as expenses of administration by said estate and as expenses of this suit, be paid by said L. H. Springer, as administrator of the estate of said Wm. H. Todd, deceased, out of the funds and assets of the estate of said Junius W. Craig, deceased, allowed to remain in the hands of said intestate, within five months from this date, and in default of such payment by said administrator, or some one for him, that payment of said sums so found due and paya-
878 ble, and which are set out in schedule "B" to said report, be enforced by sale of so much as may be necessary of the property that was of said estate in Chicot county, and purchased by said Todd, and upon which a lien was retained by decree of this court to secure the payment of the said funds and assets so allowed to be retained by said Todd, and that in the event of such sale being necessary, that the said property held by said intestate Todd at the time of his death, if any, or the last sold from or conveyed by him, shall be first sold, and so on until the required sum be obtained, and that R. M. Gaines, Esq., an attorney of this court, be and he is hereby appointed commissioner to make such sale, and such sale
879 shall be made at the court-house door in Chicot county, and upon a credit of three months, and at a time to be fixed by said commissioner, and *and* after the expiration of said five months, and notice of such sale shall be given by such commissioner of the time, place, and terms of such sale as required by law for sales of real estate under executions at law:

To D. H. Reynolds, for fee as attorney, the sum of two hundred and fifty dollars.

To D. W. Reynolds, for fee and compensation and expenses in obtaining information and preparing his report as special master, the sum of three hundred and fifty dollars.

To J. H. Smith and wife, (formerly Emma J. Wright,) for
880 costs paid in suits for the estate in the chancery court of Memphis, Tenn., the sum of six hundred and seventy-five dollars.

To R. A. Goodloe, to make him equitably even on his claim with other fourth class claims, as set out in first report of the special master, the sum of eighty dollars; and

To said R. M. Gaines, to be used in the payment of the costs of this suit, now remaining unpaid, the sum of forty-five dollars and three cents.

And it [is] further ordered that said R. M. Gaines, as commissioner, and in whose hands the said $1,102.20, the net proceeds of the lands mentioned in No. 68 in this, and now is, be, and he is hereby, directed to turn over to D. H. Reynolds six hundred dollars of
881 said sum of $1,102.20, and that said Gaines, as such commissioner, be subrogated to the rights of said Reynolds, and that he replace said sum of $600.00 out of the sum herein directed to be paid by said L. H. Springer, or, in default, to be enforced by sale, and that the said sum so replaced and the remainder of the sum of $1,102.20 be held by said Gaines as commissioner, to abide the decision of the supreme court of Arkansas in said case No. 68, now in said supreme court on appeal.

And it is further ordered, adjudged, and decreed that the said sum of $64,358.89, the assets of said estate, as found by said report, for distribution among the creditors of said estate, and in the
882 hands of said Wm. H. Todd and Lucy D. Woolfolk and Joseph S. Woolfolk and Dudley P. Peake, as of the 18th day of October, 1872, and of which the said Todd had $14,164.58, the said Lucy D. Woolfolk and Joseph S. Woolfolk had $40,511.86, and the said Dudley P. Peake had $9,682.45, be distributed among the creditors according to their respective rights, as heretofore ascertained and determined, and as set out in said special master's report; that is to say, that said L. H. Springer, as administrator of the estate of the said Wm. H. Todd, deceased, have and receive the sum of $58,045.14 in payment in full of the claim of said intestate as assignee of the 3rd class claim of A. D. Kelly & Co.; that said L. H. Springer,
883 as such administrator as aforesaid, have and receive the sum of $1,838.65, the *pro rata* share on the fourth class claim of the said intestate; that said Lucy D. Woolfolk and Joseph S. Woolfolk have and receive the sum of $3,330.91, the *pro rata* share on their 4th class claim; that Mrs. A. C. George, as executrix, &c., have and receive the sum of $171.26, the *pro rata* share on her fourth class claim, and that R. A. Goodloe have and receive the sum of $14.04, the *pro rata* share on his 4th class claim.

And it is further ordered, adjudged, and decreed that the said distributees have, receive, and recover the said several sums so above

allotted and decreed to them, respectively, out of the said assets that were in the hands of said intestate, Wm. H. Todd; and said
884 Lucy D. Woolfolk and Joseph S. Woolfolk and said Dudley P. Peak, on said 18th day of October, 1872, as follows:

That the said Lucy D. Woolfolk and Joseph S. Woolfolk be allowed to retain of the said funds and assets in their hands the said sum of $2,330.91 due them.

That said Dudley P. Peake be allowed to retain out of the said funds and assets in his hands the said sum of $559.86 due on his said claim, here known as the claim of L. W. Peake.

That the said L. H. Springer, as such administrator, be allowed to retain out of the said funds and assets in his hands of his said intestate the sum of $12,765.55, being the balance after payment of the sums in this decree provided for, and that said sum of
885 $12,765.55 be credited on the said sums of $58,045.14 and $1,838.65, ascertained and adjudged to said intestate.

That the said Mrs. A. C. George, as ex'tr'x, &c., have and recover of and from said Lucy D. Woolfolk and Joseph S. Woolfolk the said sum of $171.26 out of the said funds and assets in their hands, and that payment thereof be enforced by execution as upon executions at law.

That the said R. A. Goodloe have and recover of and from said Lucy D. Woolfolk and Joseph S. Woolfolk the said sum of $14.54 out of the said funds and assets in their hands, and that payment thereof be enforced by execution, as upon judgments at law.

That said L. H. Springer, as such administrator as aforesaid, have and recover of and from said Lucy D. Woolfolk
886 and Joseph S. Woolfolk the sum of $37,995.65 out of the said funds and assets in their hands, and that payment thereof be enforced by execution, as upon executions at law.

That said L. H. Springer, as such administrator as aforesaid, have and recover of and from said Dudley P. Peake the sum of $9,122.59 out of the said funds and assets in his hands, and that payment thereof be enforced by execution, as upon judgments at law.

Aud it is further ordered, adjudged, and decreed, that the said sum of three hundred and fifty dollars, hereinbefore mentioned as the fee for the services and expenses of D. H. Reynolds as
887 special master, since the October term, 1872, of this court, be fixed as his full compensation for such services and expenses, and that payment be made as heretofore directed.

Endorsed on margin of record: "For value received I hereby sell, transfer, and assign to Benjamin H. Smith all my right, title, interest, and claim in and to the within decree. May 8, 1880. J. H. Smith, in right of his wife, by John G. B. Sims, att'y. Attest: Geo. T. Wilkinson, clerk."

Report of Special Master.

In the Chicot Circuit Court, in Chancery. January term, 1880.

THE CREDITORS OF JUNIUS W. CRAIG, Deceased,

v.

EMMA J. WRIGHT, Ex., & others.

888 To the Hon. T. F. Sorrels, judge of said court in chancery:

In pursuance of the original order of this court, made at its October term, 1871, and the order made at its September term, 1872, and its further order made at its July term, 1879, in the above-entitled cause, and the introduction in said orders continued, I submit this my report as special master of what has been determined since the filing of my report on September 23d, A. D. 1872. I report that the attempt to subject the property of the estate in Memphis to the payment of the general creditors was a failure, and resulted only in cost and expenses.

The said property was consumed by the claims of one Heath,
889 a creditor of said estate, who never probated his claim against the estate in Arkansas, and by the taxes that had been allowed to accumulate in it, and the great depreciation in property Mr. W. H. Todd, though the receiver, pay as attorney fees out of the funds in his hands, in addition to the amount stated in my first report, six hundred dollars to Messrs. Adams and Dixon. And there is now due and unpaid the sum of six hundred and twenty-six & $\frac{60}{100}$ dollars and forty-seven & $\frac{40}{100}$ dollars, making, including interest to date, $674.00 costs incurred in said suit and paid J. H. Smith, the husband of said Emma J. Wright, and which sum should be repaid to him out of the assets of said estate allowed to remain in
890 the hands of said Todd, to be paid out on the order of court.

The property in the city of Louisville, and in Jefferson county, in the State of Kentucky, and that was sold, as stated in my first report, did as since ascertain-, yield for distribution among the creditors of said estate, after payment of all expenses and costs, the sum of $49,889.81, including interest to October, 1872, which sum was then divided between Lucy D. and Joseph S. Woolfolk and Dudley P. Peak (who in Kentucky held the claim that is here known as the claim of L. W. Peak), said Lucy D. and Joseph S. Woolfolk receiving the sum of $40,272.26, and said Peak receiving the sum of 9,657.22, as of that date, tho' much of it was not received
891 until some time thereafter, and a further sum of $404.46, being all remaining, was, by decree of court, divided, on March 21, 1879, and of this the said Lucy D. and Jos. S. Woolfolk received, as of said Mar. 21, 1879, the sum of $328.24, and said Peak, as of that date, the sum of $76.22, or treating the whole as convenience, as being paid on October, 1872, by taking the present worth at that time of the amounts paid on March 20th, 1879, and we have, in addition to the $40,272.26 for Lucy D. and Jos. S. Woolfolk, the sum of $239.60, and making for them, as of October 18th, 1872, the sum of $40,511.86, and we have for Dudley P. Peak, in ad-

dition, the sum of $54.90, and making for him the sum of
892 $9,682.45 for all of said payments, the sum of fifty thousand one hundred and ninety-four $\frac{31}{100}$ dollars; no other creditors succeeded in establishing their claims in Kentucky, where proceedings were first instituted about the year 1867, by said Lucy D. and Jos. S. Woolfolk, and no other creditor received any of the said funds, they were administered thro' case No. 19,074, in the Louisville chancery court, in the city of Louisville, in the State of Kentucky.

And I further report that the chancery suit No. 68, in this court, to foreclose the mortgage given to secure the Samuel R. Walker notes was at first defeated in this court by the court's sustaining a tax title acquired during the pendency of the suit.

893 On appeal to the supreme court the decree was reversed and the case sent back to this court, with leave to the ex'r of estate of Harris F. Walworth, deceased, to set up his claims to the notes leased upon an alleged assignment by the ex'r'x of the estate of said Junius W. Craig, deceased, pending said suit and pending the settlement of this estate. Sec. 30, Ark's, 44. Upon the return of the case to this court such claim was set up and decree rendered against it in favor of said estate, and under said decree the lands mentioned in said mortgage were sold on May 1st, 1879, and purchased by one Wm. P. Halliday, for twelve hundred doilars, one-half cash and one-half in eight months, and the sale was con-
894 firmed at the July term 1879, of this court. The cost in the case No. 68 in addition to the amount reported in my first report are as follows: Attorney fee to A. H. Garland, in supreme court, $250; fee to D. H. Reynolds, in supreme court, and costs there, $110; amount paid C. W. Fry, for survey and map of the lands, under order of the court, $100; amount paid to clerk of this court as costs, including transcript, $24.10; see receiver's report, filed July 10, 1876; and since the return of the case there has been paid out of the proceeds of the sale, $47.80 cost, including cost attending sale besides the sum of $50, commissioner's fee for making sale, leaving of the $1,200, the sum of $1,102.20, and in addition to the amounts paid out in this
895 case as above there is yet due the sum of $250.00, additional attorney's fee, to D. H. Reynolds for services rendered and to be rendered in this court and in the supreme court, where the case has again be- carried by appeal by said ex'r of estate of Walworth upon the question as to whether or not the proceeds of the sale should not be first applied to payment of the taxes on the property, while it was in possession of the parties to the suit and claiming the tax title, and whether it should not go to said ex'r of est. of Walworth. The proceeds of said sale are yet in abeyance, awaiting the decision of the Supreme Court. The property involved in
896 said suit No. 68 was once very valuable, and large sums of money have been expended in good faith by the representative of the estate under the orders of the court, but owing to the depreciation of the property in value by loss of levees and from other causes, if the proceeds are sacured to the estate, they will repay but a small part of the amount expended to secure them. For the pur-

poses of this report, the $1,200, less the 97.80 costs, &c., attending the sale in the $1,102.20 will be omitted and not considered as part of the assets, as it will, if finally obtained, only increase by a small amount the percentage going to the creditors of the estate, and may then be divided. The exceptions filed by Wm. H. Todd to
897 that part of my first report placing his Kelly claim in the 4th class of claims, was sustained at the January term, 1876, of this court, and the claim placed in and declared to be in the 3d class of claims against said estate; and the exceptions filed by Mrs. A. C. George seem to have been abandoned, as no action has been taken on them; so, for the purposes of this report, I will treat the Kelly claim as a third class claim, and the amount of the claim of Mrs. A. C. George as reported in my said first report.

I report the notes of C. A. Moore, reported by the receiver as being in the hands of Messrs. Bodley *Surrel*, of Louisville, as worth-
898 less, and I further report that after the approval of my said first report at September term, 1872, of this court, the claims therein mentioned as being for expenses of administration (see Report, pages 14, 35, 36, 37, 41, 42, & 43), and amounting, on July 1st, 1872, $33,006.80, have been paid by Wm. H. Todd, and he is entitled to a credit against the funds of the estate left in his hands. The claims in favor of Emma J. Wright and Wm. P. Halliday were then in litigation, and were allowed, finally, in this case, on June 15th, 1873, then amounting to larger sums, by including interest, and *and* to be credited as of that date and time given for payment, and time was also given by agreement with said Todd, as to claim in
899 favor of J. M. Craig's assignees, amounting on July 1st, 1872, to $6,895.28, and time for the payment of the claim, $816.87, was also extended. All of which claims have been subsequently paid.

As the calculation of interest on the sums to be paid, and on the fund out of which payment was to be made, would be from a common date, July 1, 1872, and a common rate, 6 per ct. would not change the result. I treat the payment of them as made as of that time, and deal only with the balance of the fund (see p. 50 & 51 of first report) then in the hands of Wm. H. Todd; that is to say, $48,711.55, less $33,006.80, leaving the sum of $15,704.75, and out of such funds the said Wm. H. Todd has since paid other large
900 sums of money as expenses of administration and expenses of this suit, and for which he receives credit in this report. A schedule of the amount of such payments is herewith filed as part hereof, and marked Schedule "A," and amounting in the aggregate to the sum of one thousand eight hundred and fifteen dollars. And there is yet due and to be paid out of said funds so retained by said William H. Todd several large sums of money — which the proper credit should be allowed, and for which an order should be made. A schedule of such sums of money is herewith filed as part hereof and marked Schedule "B," and amounting in the aggregate to the sum of nine hundred and twenty-four & $\frac{2}{100}$ dollars,
901 besides $350 for master's fee for this court, and amount to good ——, in all, $1,399.05.

I further report that on Oct. 1872, there were assets of the estate in the hands of W. H. Todd, the *the* sum of $15,979.58, and deduction amount in Schedule "A" $1,815.00, left $14,164.58, to this must be added assets from Louisville, $50,194.31, making in all $64,358.89, and from this amount taking amount of Kelly claim, then amounting to $58,045.14, less $6,313.75, and amount in Schedule "B" $1,399.03, leaves $4,914.72 to be distributed amongst the fourth class claims; and that the fourth class claims on July 1st, 1872, amounted to $123,690.32, making a *pro rata* of 0.395 per cent.
902 on the dollar on said claims, and making for the respective claims as follows:

W. H. Todd, $46,584.03 gives	1,838 65
Lucy D. & Jos. S. Woolfo-k	59,010 40
——— ——— gives	2,330 91
L. W. Peak, $14,173.56, gives	559 86
Mrs. A. C. George, 4,335.96, gives	171 26
R. A. Goodloe, 355.20, gives	14 04
	4,914 72

And I further report that said Lucy D. and Joseph S. Woolfolk, after being credited with said $2,330.90, have in their hands of the assets of said estate $38,180.95, and the said Peak, after being credited with said $559.86, has in his [hands] of the assets of said estate $9,122.59.

And I further report that a distribution can be effected by giving a decree in favor of said Goodloe against Lucy D. & Jos. S. Woolfolk for $14.04, and against them also in favor of Mrs. A. C.
903 George for $171.26, and against them in favor of said Todd for $37,995.65, and also a decree in favor of said Todd against the said Peak for said $9,122.59, and leaving said balance of $1,399.03 estimated to cover all costs and expenses as set out in Schedule B.

All of which is respectfully submitted.

D. H. REYNOLDS,
Special Master.

SCHEDULE "A."

Amount paid D. H. Reynolds his fee as special master for first report	750 00
Amount paid Adams & Dixon, see receiver's report, July, 1876	600 00
Amount expended by receiver other than amounts heretofore credited, see receiver's report of July, 1876	465 00
	1,815 00

SCHEDULE B.

904 Amount paid by J. H. Smith:

Cost in suit for ex't'x in Memphis, with interest	640 00
Am.'t bal. of attorney's fees in No. 68 in S. C. & in this court	250 00
	924 00
For master's fee in this report	350
" amounts to Math. Goodloe, see 1 report	80
" costs in this suit	45 03
	1,399 03

Endorsed: Filed in open court, Jan. 23rd, 1880. Geo. T. Wilkinson, cl'k.

STATE OF ARKANSAS, *County of Chicot:*

I, Geo. T. Wilkinson, clerk of the circuit court and *ex-officio* recorder in and for the county and State aforesaid, do hereby certify that the foregoing 572 pages, and the above writing on this page, contains a true and correct transcript of the record and pro-
905 ceedings in this cause therein mentioned, as the same remains of file and record in my office.

Witness my hand and the seal of said court hereto affixed, this 14th day of October, A. D. 1880.

[SEAL.] GEO. T. WILKINSON, *Clerk*,
By W. W. WILKINSON, *D. C.*

906 Which answer of L. H. Springer is as follows:

In United States Circuit Court, Eastern District of Arkansas.

JOSEPH S. WOOLFOLK *vs.* BEN. H. SMITH *et al.*

And the defendant, L. H. Springer, as administrator of the estate of said William H. Todd, deceased, for separate answer to the bill of complaint herein, says:

He admits it to be true, as alleged in the amendment to said bill of complaint, that letters of administration on the estate of the said William H. Todd, deceased, were granted to him by the probate court of Chicot county, and that, having duly qualified as the administrator of said estate, he is now acting in the discharge of his duties as such.

And this defendant, further answering, says that he has
907 carefully read the separate answer of the said Ben. H. Smith, his co-defendant herein, and believes that the allegations therein contained are true; and he here refers to said answer and adopts the whole thereof as part of this defendant's answer herein, as fully to all intents and purposes as if the facts set forth therein were here again repeated.

And this defendant, further answering, says that he is ready and

willing and hereby offers to set off against the claim of the said plaintiff, as alleged in said bill of complaint, so much of the said decree recovered by this defendant against the said plaintiff and his wife, the said Lucy D., as set forth in the answer of his co-defendant, the said Ben. S. Smith, as may be necessary to pay off and satisfy the said claim of the said plaintiff, and this defendant insists that in equity he should be permitted to do so.

And now, having fully answered, this defendant prays to be hence dismissed, with his reasonable costs in this behalf expended.

F. W. COMPTON,
Solicitor for Defendant.

908 STATE OF ARKANSAS, *County of Chicot:*

L. H. Springer, whose answer the foregoing is, states on oath that the facts stated therein as of his own knowledge are true, and those stated on information he verily believes to be true.

L. H. SPRINGER.

Subscribed and sworn to before me, this 17th day of March, 1880.
[SEAL.] GEO. T. WILKINSON, *Clerk.*

Indorsed: Filed March 22nd, 1880. Ralph L. Goodrich. clerk.

909 UNITED STATES OF AMERICA, *Eastern District of Arkansas:*

Be it remembered that at a circuit court of the United States of America in and for the eastern district of Arkansas, begun and holden on Monday, the 12th day of April, anno Domini one thousand eight hundred and eighty, at the United States court-room, in the city of Little Rock, Arkansas, the Honorable Henry C. Caldwell, district judge, presiding and holding said court, the following proceedings were had, to wit, on June 7th, 1880:

Comes the complainant, by U. M. Rose, Esq., his solicitor, and files herein his motion for exhibits.

Which motion is as follows:

Comes the plaintiff, and shows to the court that the decree mentioned in the answer of the defendant herein as having been rendered against him, in the Chicot circuit court, in favor of L. H. Springer, on the 23rd day of January, 1880, was rendered
910 without service of process on him, and without his ever having entered his appearance in the suit in which it purports to have been rendered, and has been gotten up since the commencement of this suit for the purpose of defrauding the plaintiff out of his equitable remedy sought herein; and he prays that the defendant may be required to file a copy of the record of the suit in which said decree purports to have been rendered as an exhibit in this cause, and that in default thereof his said answer may be stricken from the files.

U. M. ROSE.
JOSEPH S. WOOLFOLK.

STATE OF KENTUCKY, }
County of Fayette, } *ss:*

On this day came before me, a notary public in and for
911 said county and State, Joseph S. Woolfolk, and being by me duly sworn, made oath that he believes the matters set forth in the foregoing paper to be true.

JOSEPH S. WOOLFOLK.

Sworn to and subscribed before me.

Witness my hand and seal of office, on this 10th day of May, 1880.

[SEAL.] JOHN T. SHELBY,
Notary Public, Fayette County, Ky.

Endorsed: Filed June 7, 1880. Ralph L. Goodrich, clerk.

And on July 7, 1880, the following proceedings were had, to wit:

Comes the complainant, by U. M. Rose, Esq., his solicitor, and files herein his replication, and on his motion it is ordered
912 that this cause be set down for final hearing on October 5th, 1880.

Which replication is as follows:

The repliant, saving and reserving to himself all advantage of exception that may be taken to the many errors, uncertainties, and insufficiencies of the answers of the said defendants for the replication thereto, says: That he doth and will aver, maintain, and prove his said bill to be true, certain, and sufficient in law to be answered unto by the said defendants, and that the answer of the said defendants is very uncertain, evasive, and insufficient in law to be replied unto by this repliant, without that, that any other matter or thing in the said answers contained material and effectual in
913 law to be replied unto, and not herein well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all of which matters and things this repliant is ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays, as in and by his said bill he hath already prayed.

JOSEPH S. WOOLFOLK,
By U. M. ROSE, *Sol.*

Endorsed: Filed July 7th, 1880. Ralph L. Goodrich, clerk, by W. P. Feild, D. C.

And on October 5th, 1880, the following proceedings were had, to wit:

Come the defendants, Ben. H. Smith and L. H. Springer, by F. W. Compton, Esq., their solicitor, and files herein their several amendments to their answers in this case.

914 Which amendment to answer of Ben. H. Smith is as follows:

Comes the said defendant, Ben. H. Smith, who, on special leave of

the court first had and obtained, states by way of amendment to his answer herein that the estate of the said William H. Todd, deceased, was at the time of his death and is now insolvent.

And the said defendant prays as in and by his said answer he has already prayed.

F. W. COMPTON,
Sol. for Def't Smith.

STATE OF ARKANSAS, *County of Chicot:*

Ben. H. Smith states on oath that the facts set forth in his amendment to his answer above written are true.

BENJ. H. SMITH.

Sworn to before me this Sept. 22, 1880.
[SEAL.] GEO. T. WILKINSON, *Clerk.*

915 Endorsed: Filed October 5, 1880. Ralph L. Goodrich, clerk.

Which amendment to answer of L. H. Springer is as follows:

Comes the said defendant, L. H. Springer, as administrator of the estate of the said William H. Todd, deceased, who, after obtaining special leave of the court, states by way of amendment to his said answer herein that the estate of the said William H. Todd, deceased, was at the time of his death, and is now, insolvent. And the said defendant insists that a decree shall be rendered in his favor for any excess of the said claim of his said intestate over the claim of the said plaintiff that may be ascertained; and he prays as in and by his
916 answer he has already prayed.

F. W. COMPTON,
Sol. for Def't Springer.

STATE OF ARKANSAS, *County of Chicot:*

L. H. Springer states on oath that the facts set forth in his amendment to his answer above written are true.

L. H. SPRINGER.

Subscribed and sworn to before me, this Sept. 22, 1880.
[SEAL.] GEO. T. WILKINSON, *Clerk.*

Endorsed: Filed October 5, 1880. Ralph L. Goodrich, clerk.

917 UNITED STATES OF AMERICA, *Eastern District of Arkansas:*

Be it remembered that at a circuit court of the United States of America in and for the eastern district of Arkansas, begun and holden on Monday, the eleventh day of April, anno Domini one thousand eight hundred and eighty-one, at the United States court-room, in the city of Little Rock, Arkansas, the Honorable Henry C. Caldwell, district judge, presiding and holding said court, the following proceedings were had, to wit, on May 10, 1881:

Comes the complainant, by U. M. Rose, Esq., his solicitor, and on

his motion it is ordered that this cause be set down for final hearing on the 9th day of June next.

The following depositions and admission of counsel, together with the exhibits to the bill and answers hereinbefore copied, were read on the final hearing of the cause.

918 *Deposition of Joseph S. Woolfolk.*

JOSEPH S. WOOLFOLK, a witness for and on behalf of the plaintiff herein, and residing in the city of Lexington, Fayette county, in the State of Kentucky, more than one hundred miles from the place where this cause is to be tried, being duly cautioned, and sworn to tell the whole truth, and being carefully examined, deposes as follows, and to question 1st, by plaintiff's attorney, Judge U. M. ROSE, states:

I am the plaintiff in this action; reside in Lexington, Fayette county, Ky.; have lived there the part of fifteen years; have lived in the State of Kentucky all my life; my age is fifty years; I am acquainted with Charles H. Carlton, of Chicot county, Arkan-
919 sas; I had a claim against the Junius W. Craig estate for about sixty thousand dollars, which claim I placed in the hands of Johnson Chapman, of Chicot county, Ark., as my attorney for collection, in 1858. This claim was for land and other property in said Chicot county, bought by Junius W. Craig of Lucy D. Craig, who I married in 1858. Before the war suit was brought in said Chicot county against said estate to enforce this and other claims. My attorney, Mr. Johnson Chapman, represented me in that suit, and he continued to represent me as my attorney until the sale of the lands in Chicot county, 1868. C. H. Carlton had become the partner of Mr. Johnson Chapman in the law practice, and I
920 thus became connected with him in the case as one of my attorneys. Mr. Carlton, in October, 1868, sent me the notes of Wm. H. Todd for my interest or part of the sale money for the Bellevue plantation, which Todd had purchased, about which time Carlton sent me his account for services rendered as my attorney, which account I paid. Carlton has not been my attorney since that time. I have never recognized him or employed him as my attorney since that time.

It was on one of the Wm. H. Todd notes sent me by Carlton that suit was brought in the Owen circuit court, Ky., on which a decree was rendered against Wm. H. Todd, and upon which this suit is brought. After 1867, I never had any occasion to consult
921 any lawyer in Chicot county. My attention is called to the transcript of a petition filed by Wm. H. Todd in the Chicot circuit court against myself and wife, on page 299 of the transcript shown me, and of an order to show cause entered in said court on the 14th of April, 1869, page 319 of said transcript. I never appeared in that proceeding either in person or by attorney. I never heard of that or any such proceedings until after final decree had been rendered against me in it. The first intention of such proceeding

was by a letter to me from Judge U. M. Rose, my attorney in this suit, after a decree rendered in the Chicot circuit court on Todd's petition had been set up as a defense to this suit. My wife is dead; she died in 1875, leaving five children, by me, as her only
922 heirs. My wife lived in Kentucky from 1855 to 1856, until her death. No appeal has ever been taken from the decree of the Owen circuit court upon which this suit is founded; nothing has ever been paid on this Owen circuit court decree, the decree sued on in this action.

On cross-examined by JAS. F. ROBINSON, Esq., attorney for def'ts, states:

About the time I received the note on which the decree sued on herein was sent to me I wrote to Col. Carlton that I did not wish to have any further connection with the litigation in the Craig estate in Arkansas; in fact, I thought I was out of it. I never considered Col. Carlton as my attorney, only as succeeding the business of Mr. Chapman, who I had originally employed.
923 About the time he wrote me and sent me his account and bill for services I wrote him that I didn't need any further legal services of his in Chicot. Since that time I have never employed or consulted any attorney in Chicot county in regard to any matter. Some time between 1870 and 1873 I wrote a letter to Mr. Carlton asking him whether it wouldn't be possible to break up the Kelly claim as allowed as a 3rd class claim in the final decree of October 28, 1868. He answered me, referring me to the firm of Bell & Carlton, a firm of lawyers in Pine Bluff, but I never wrote to them.

On re-examination by pl'ff's att'y, states:

At the time I wrote to Mr. Carlton that I should not need
924 his services any longer I paid him $250.00 in final settlement of his charges as my attorney; this is my recollection. I know I paid him the money, but it might not have been just at that time.

I have never had any communication with the defendant Smith about the subject-matter of this suit.

To cross-examination:

Todd had property in Owen county—a farm, which was under mortgage—and I expected to make a part or all of my decree or debt against him; but when the farm was subjected to sale it did not bring more than the mortgage debt, and I got nothing.

JOS. S. WOOLFOLK.

Subscribed & sworn to before me, this 27 May, 1881.

S. W. D. STONE,
N. P., Jeff. Co., Ky.

925 Endorsed: Opened and published by order of court May 30, 1881. Ralph L. Goodrich, clerk, by W. P. Feild, D. C.

Deposition of Jas. F. Robinson.

I am fifty years of age, and reside in Chicot county, Arkansas.

I am acquainted slightly with Joseph S. Woolfolk, the plaintiff; was acquainted with Wm. H. Todd, and am acquainted with Ben. H. Smith. My acquaintance with Woolfolk and Todd commenced some time before 1860.

I know that Todd became indebted to Woolfolk—I think 1869—for a debt due his wife, Lucy D. Woolfolk, growing out of an interest which she became entitled to in the lands of her first hus-
926 band, Leland Craig, and which interest she sold to Junius W. Craig, brother of said Leland, for a sum of money, the amount of which I do not now remember. This money was secured by a mortgage; I think on one-fourth interest on part of the Bellevue plantation. After the death of Junius W. Craig, and during the settlement of his estate, said plantation was ordered to be sold, and Mrs. Woolfolk's debt on what remained unpaid of it at that time, directed to be paid out of the proceeds of the sale, Mr. Todd being the purchaser of Bellevue, made some arrangement with Woolfolk for an extension of time in paying this money to Mrs. Woolfolk, which was given, two notes for the amount, payable in one
927 and two years after date, with a mortgage on the whole of Bellevue to secure same. The notes were executed in the fall of 1868. Benj. H. Smith has had continuous possession of the Bellevue plantation as a full partner or half owner with Mr. W. H. Todd ever since the year 1868, with the exception of the time since he bought the interest of Mr. Todd—say two or three years ago; since when he has had sole possession. I should state, perhaps, that he was for a year dispossessed of a small part of the plantation by Wm. P. Halliday, which he recovered again. Mr. Woolfolk never had possession of Bellevue or any of the lands comprising that plantation that I know of.

As to whether there was any controversy between Woolfolk and Todd about the debt, I can only say that I have, as attorney
928 for Todd, advised him repeatedly, since, I think, 1873 or 1874, up to the time of his death, not to pay this Woolfolk debt, because I thought the Kelly debt would be held and considered a preferred debt against Junius W. Craig's estate, and that, upon marshalling the assets in Kentucky and Arkansas, it would be shown that Woolfolk had gotten largely more than his share or *pro rata*, and was indebted to Todd in excess of the amount due by Todd on his said notes. I believe Mr. Todd acted on my advice, and I know that Benj. H. Smith has repeatedly told me that Mr. Todd did not owe Woolfolk upon a final settlement, but that Woolfolk owed him.

J. F. ROBINSON.

Sworn to & subscribed before me, this 23rd day of March, A. D. 1881.

[SEAL.] JOHN INGRAM,
Notary Public.

929 *Deposition of Benj. H. Smith.*

My name is Benj. H. Smith; I am fifty years of age, and reside in Chicot county, Arkansas; I am the defendant in this suit; I saw Joseph S. Woolfolk once in March, 1868, the plaintiff in this suit; I was acquainted with William H. Todd in his lifetime; I became acquainted with Mr. Todd in 1863; I know that Mr. Todd became indebted to Mr. Woolfolk in 1868, about the 20th of March, for a debt due Woolfolk's wife, growing out of a mortgage or lien on one-fourth part of the Bellevue plantation, Mrs. Woolfolk having at one time been the wife [of] Leland P. Craig, and which interest Mr. Todd purchased when the Bellevue plantation was sold in March,
930 1868, for $35,000.00; said sale was, by order of the Chicot circuit court, for the one-fourth, $8,750. Mr. Todd gave Woolfolk two notes of $4,375 each in October, 1868, at one and two years, secured by mortgage on Bellevue plantation; the first note was paid in 1869.

I took possession of Bellevue about the 10th of January, 1868, before the sale of the plantation under the decree of the Chicot circuit court.

Mr. Todd was to make me a deed to the undivided one-half of Bellevue and which he did in October, 1869, and I paid him for the land; I had possession of Bellevue from January, 1868, as the half owner with Mr. Todd up to this time except of a small portion in section 12. I was dispossed by William P. Halliday from March, 1869, to December, 1869, when I was again put in possession.
931 In 1876 I bought at sheriff's sale Mr. Todd's undivided one-half interest in 6 and 7 and received the deeds from the sheriff and have had possession of land since. In 1878 I bought Mr. Todd's interest in the balance of Bellevue plantation. Joseph S. Woolfolk never had possession of any part of the Bellevue plantation before or since the mortgage was executed.

When the deed from Mrs. Todd to me was made General Pike wrote it, and at that time he advised Mr. Todd not to pay either of the notes above mentioned, but before Mr. Todd could write to his merchant in New Orleans not to pay the first note it was paid. Mr. Todd ever afterwards refused to pay the second note, and the reason why he refused was that he and Woolfolk were creditors of
932 Junius W. Craig estate and Woolfolk has received towards the payment of his debt against the Craig estate more than his share has creditor and Mr. Todd less than his share, and that Woolfolk on a fair settlement would be in debt to Mr. Todd more than the amount of the two notes, Gen. Pike advised Mr. Todd that if Woolfolk ever came to Arkansas as to collect the notes he would have to pay over to Mr. Todd all the money he had got in Kentucky over his share.

From the time Mr. Todd sold me an undivided one-half of Bellevue he and I did not treat the mortgage as an incumbrance on the land and held possession of the lands the same as if no mortgage had been given or it had been paid off.

Mr. Todd and myself held possession together until I
933 bought all his interest, and then I held possession alone, and am now in possession of the Bellevue plantation.

BENJ. H. SMITH.

Cross-examination by plaintiff's solicitor:

1. Were you present at the time that Mr. Pike gave the advice to Mr. Todd mentioned in your examination-in-chief?
2. How do you know that Mr. Todd refused to pay the notes?
3. How do you know what Mr. Todd's reasons were?

U. M. ROSE, *For P'tff.*

Answer. I was present at the time Mr. Pike gave Mr. Todd the advice not to pay notes—at the time Mr. Todd said he would not pay them.

Woolfolk afterwards wrote Mr. Todd asking him to pay the
934 last note. Mr. Todd refused to do so, for the reason I have stated in my examination-in-chief. This I know of my own knowledge, and I often heard Mr. Todd say he never would pay the last note.

I know the reason why Mr. Todd did not pay the note, because I heard him give the reason, as I have above stated it in my examination-in-chief. At the time he received the above letter from Woolfolk I was connected in business with Mr. Todd, and very familiar with his affairs.

BENJ. H. SMITH.

(Endorsed:) Opened and published by order of court May 24, 1881. Ralph L. Goodrich, clerk, by W. P. Feild, D. C.

935 *Deposition of Albert Pike.*

1st Ques. (By the Commissioner.) What is your name, your age, your place of residence, your occupation, whether you are acquainted with the parties to said suit, whether you are related to either of them, and if yea, in what degree, and whether you have any interest direct or indirect in said suit or the result thereof, and if yea, what that interest is?

Ans. My name is Albert Pike; aged seventy-one years. I reside in Washington city, and am a lawyer. I am acquainted with the parties to said suit, I believe. I am not related to either, and have no interest whatever in said suit.

2nd Int. Are you advised if the character of said suit? If yea, state whether or not you ever advised William H. Todd of
936 his rights under a certain Kelley claim against the estate of Junius W. Craig, deceased, and not to pay Joseph Woolfolk a certain debt he had contracted on account of his purchase of the interest —— wife of said Woolfolk in a certain plantation named Bellevue, in the county of Chicot, Arkansas, and that you would make said Woolfolk ultimately account for the excess over his *pro*

rata share that he, Woolfolk, might receive out of the assets of said estate in Kentucky, and that said Todd acted under your advice?

Ans. Junius W. Craig died in Louisville in 1858. He was a citizen of the county of Chicot, in Arkansas, and had a large estate there and in other counties in Arkansas, and owned certain real estate in the city of Louisville. His estates in Chicot county consisted chiefly of two plantations, one of which was known as the Yellow
937 Bayou plantation, on which William H. Todd, of Philadelphia, had a mortgage, and was a creditor of the estate on account of that mortgage debt and other indebtedness. Joseph S. Woolfolk and Lucy D. Woolfolk, his wife, residing in Kentucky, were also creditors of his estate, and so was the house of A. D. Kelly & Co., of New Orleans, who held a large amount of paper received from Junius W. Craig in March, 1858, as collaterals on advances made and to be made by them, which paper, consisting of notes of third parties, was in their hands when Craig died.

In 1867 Todd employed me as his counsel to attend to his matters against the estate in the county of Chicot, and also to a suit brought by Woolfolk and wife in the chancery court of Louisville, Kentucky, where administration had been taken out, and the real estate
938 in Louisville sold for a large sum under a decree. Todd had purchased the claim of Kelly & Co. against the estate, which had been allowed by the probate court of Chicot county, where also there was administration on the estate. To enable the administrators there to get possession of the paper which Kelly & Co. held as collateral, the probate court had allowed their claim and ordered it to be placed in the third class, which gave it preference over the claims of all the other creditors. Woolfolk's claims were also allowed in the probate court, and were paid in part out of proceeds of the crops of 1859 and 1860, which Kelly & Co. permitted to go to pay Todd, Woolfolk, and other creditors. A creditors' bill was filed in the chancery court of the county of Chicot for settlement of the estate and marshalling of the assets, in which Todd and Woolfolk
939 and wife and others were complainants. At the same time Woolfolk and wife were endeavoring by suit in Kentucky to get the residue of their claims paid to the exclusion of the other creditors who had had their claims allowed in Chicot county out of the proceeds of the property in Louisville, Kentucky. I filed an answer for Todd in the chancery court of Louisville, and went there and argued the matter, insisting on payment of the claim of Kelly & Co. which had been purchased by and assigned to Todd in preference to Woolfolk's claim. I file a copy of the argument I made in the chancery court as part of this, my deposition, which is marked Exhibit A. P., No. 1. That court refused the relief prayed by Todd, and I contracted to press forward the suit on the creditors'
940 bill in Arkansas, wherein, by proper pleading, Todd claimed a preference over the claims of Woolfolk and others for the claim of A. D. Kelly & Co.

In October, 1871, the matters under the creditors' bill were referred to a special master, who was to enquire, first, whether the Kelly claim was entitled to be paid in full; and, third, what amount of

assets there was of the estate including proceeds of sale in Kentucky. My purpose being to obtain a final decree on his report and then enforce the decree in Kentucky against Woolfolk by compelling him to pay over to Todd whatever amount he should appear to have received under the administration in Arkansas and Kentucky over and above the amount to which he was entitled as that might be decreed. The master reported against payment of the Kelly
941 claim in full, and I excepted to his report on that ground. Before the matter was decided on exceptions, I ceased to attend the circuit court of Chicot county, and the connection of lawyer and client between myself and Todd ceased.

I know of the mortgage executed by Todd to Woolfolk and wife for the purchase-money of their interest on some part of the lands belonging to Craig's estate, and anticipated obtaining a decree in favor of Todd against Woolfolk and wife for a much larger amount, feeling perfectly certain that the exceptions to the master's report would be sustained and the claim of Kelly & Co. be decreed to be entitled to preference of payment in full as of the third class; the result of which would necessarily be a decree against Woolfolk and wife *in personam* for the excess received by them over and above what they were entitled to receive by law.
942 I am aware that most of what I have stated is properly provable only by the record, to which, in Arkansas and Kentucky, I refer the parties. I file herewith as part of this deposition five letters written to me by William H. Todd, and sent to him and received by him. The first dated December 23d, 1868, the 2nd March 6, 1869, the 3rd June 2d, 1870, the 4th August 3d, 1871, and the 5th October 25th, 1871, which are respectively marked Exhibits A. P., Nos. 2, 3, 4, 5, 6, which letters contain the substance of my views and representations to Todd in regard to the matters in controversy in Kentucky and Arkansas between himself and Woolfolk and wife, though I talked with him in regard to the matters much more fully, and on many occasions assuring him that no matter what sort of a decree Woolfolk got in Kentucky, nor how much money he
943 might receive in Kentucky over and above which he was entitled to, I should make him account for the whole of the final decree in the suit in Arkansas, in which he was one of the complainants, and a decree obtained in it could be enforced against him anywhere.

3rd Int. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this case?

Ans. No, sir.

ALBERT PIKE.

944 EXHIBIT A. P., No. 1, TO DEPOSITION OF ALBERT PIKE.

In the Chancery Court of Louisville, State of Kentucky.

WILLIAM H. TODD, as Assignee of the Claim of A. D. Kelly & Co., and Creditor of the Succession of Junius W. Craig, deceased,

vs.

JOSEPH S. WOOLFOLK, LUCY D. WOOLFOLK, and others, claiming with himself, Creditors of the Succession of Junius W. Craig, deceased.

Upon the marshalling of the assets in Kentucky.

Argument of Albert Pike, of Counsel for Wm. H. Todd.

Questions.

945 1st. Ought the fact that the same plaintiff has sued the same defendant for precisely the same cause of action, in a court of general jurisdiction of another State of the Union, and that personal service having been had there, the whole matter is there in contestation, to be pleadable in abatement of an action subsequently instituted?

I say it could, *arguendo*, by way of illustration. The adjudged cases are against me, but I am not quite convinced.

2nd. Ought a court of chancery in Kentucky to entertain a suit between the same parties, to marshal the assets in Kentucky of an estate, when a suit is pending in a court of chancery of another State, in which also the complainant is one of the complainants to marshal all the assets, these being there in the hands of a re-
946 ceiver appointed at the instance of the complainant, among others, and he being one of the receiver's sureties?

Adjudicata.

The principle on which the pendency of a prior suit between the same parties and for the same cause of action may be pleaded in abatement is, as stated in Sparry's case, 5 Co., 61: "*Memo debet bis vexari, si constet curiæ quod sit pro unâ et eâdem causâ.*"

The suit must be by the same plaintiff against the same defendant and for the same cause of action. Wadleigh *v.* Veazie, 3 Sumn., 167; Hob., 137; Carth., 96.

In Hart *v.* Granger, 1 Conn., 171, the court said: "To test the principle that in such case the first bill ought to abate the second, let us see what operation or judgment in the first suit would
947 have on the second. If a judgment in the first bill would settle all the rights of the parties, it could unquestionably be pleaded in bar of the second, and would be available to bar all proceedings on it. The proposition is certainly very clear, and needs no argument to prove the truth of it. It seems to me, then, to follow conclusively that a first process undetermined would abate a second.

"It remains now but to consider whether a determination of the suit before the court in the State of Ohio, let it be either way, would

not be conclusive as to everything contained in the petition of the plaintiff in error."

And the court held that if the court in Ohio should grant relief, the decree would be conclusive and end the controversy.

If a judgment rendered by a court in Ohio would be conclusive here, the court argued the suit there can be pleaded in abate-
948 ment here. For if one is not pleadable in abatement of the other, then each can go on to that final judgment which will be conclusive; and judgment there will not prevent a judgment here.

The Constitution of the United States provides that "full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State." And by the act of Congress of May 26, 1790, records and judicial proceedings are to have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the State from whence they are taken.

In Bank of Australasia *v.* Nias, 20 L. J. Rep., (N. S.,) S. B., 284, 4 Eng. Law & Eq., 252, a foreign judgment was pleaded, and the court held that it was only *primâ facie* evidence of the cause
949 of action, and that so it was held in Bank of Australasia *v.* Harding. Held by Lord Campbell that judgments of colonial courts were not re-examinable on the merits when sued on in England. He referred to Ferguson *v.* Mahon, 11 Adol. & Ellis, 179; Henderson *v.* Henderson, 6 S. B., 228.

In Bagley *v.* Edwards, 3 Swanst., 703, Lord Camden said: "Foreign sentences are not conclusive bars here, but only evidence of the demand."

In Hall *v.* Odber, 11 East., 124, Smith *v.* Nichols, 5 Bing. N. Cas., 208, and Harris *v.* Saunders, 4 Barn. & Cress., 411, it was held that a foreign judgment is no merger of the cause of action, and that assumpsit lies on it.

But the judgment of a court in another State *is* a merger. Taylor *v.* Bryden, 8 Johns., 173; Andrews *v.* Montgomery, 19 Johns., 162; Boston Ind. Rub. Fact. *v.* Hoit, 14 Verm., 92; Napier *v.* Gedere, 1 Speers Eq., 215; Colt's Estate, 4 Watts & Serg., 314. See
950 also Bank of U. S. *v.* Merchants' Bank of Baltimore, 7 Gill, 415; Marsh *v.* Pier, 4 Rawle, 273.

In Hatch *v.* Spofford, 22 Conn., 485, the court said that foreign judgments were not conclusive.

But in Lyman *v.* Brown, 2 Curtis, 559, it was held that the original claim was not merged by a judgment in a Canadian court, and from that the court argued that the pendency of the suit there could not have been pleaded.

But again, in Goix *v.* Law, 1 Johns. Cas., 345, it was held that a foreign judgment was a bar to a suit on the same cause of action in New York; and in Brown & Seymour *v.* Joy, 9 John., 221, the court said that the *exceptio rei judicate* applied only to final definitive sentences abroad upon the merits of the case.

951 In Ostell *v.* Lepage, 16 Jur., 404, 10 Eng. Law & Eq., 250, Parker, V. C., said that a final decree of a foreign court would

be a good plea in bar to a suit in England for the same matters; but it must be of a final decree. In Lord Dillon *v.* Alvarez he said the House of Lords allowed such a plea where there had been a final adjudication in a foreign court. There was no doubt, he said, such final adjudication could be pleaded here. That was well established.

In Wheeler *v.* Raymond, 8 Cowen, 314, the court held that a party was concluded by an adjudication in another State equally as he would be by an adjudication in a court of New York.

In Newell *v.* Newton, 10 Pick., 470, Shaw, Ch. J., said: "It seems clear that the pending of another action will be no good plea
952 in abatement, unless a judgment in such action would be a bar to this, and *and* would also be binding between the parties. Otherwise it would not be equally efficacious and beneficial with the one sought in this suit, and so it would be unjust to deprive the plaintiff of the benefit of his suit." And he held that the plea must show the jurisdiction of the foreign court over the subject and over the persons of the parties.

In Earl *v.* Raymond, 4 McLean, 233, it was held that the pendency of a suit for the same cause in a State court could be pleaded in abatement in the circuit court of the United States. The court said that this was a principle well established, and that it was so held to prevent a multiplicity of suits being brought for the same cause. To tolerate the pendency of several suits at the same
953 time, for the same cause, would be a reproach, he said, to the administration of justice.

He said that the recovery of a judgment for the same cause in a State court closes the controversy and merges in the judgment the cause of action. The courts of the United States are not foreign to the States. And he added, "If this effect be given to the judgment of a State court, it would follow that the pendency of a suit in such court may be pleaded to an action for the same cause in the courts of the United States."

It must be admitted that the authorities settle beyond question—That a judgment in one State merges the original cause of action so that it cannot be sued on, or a suit on it continued in another State. The judgment, by the Constitution, has the same effect in every State as in that wherein it was rendered.

954 That such judgment is conclusive in another State, and may be sued on there as a judgment. And that is a good plea in bar, at least in abatement, that such judgment has been rendered.

Then this effect being given to such a judgment, the pendency of a suit in which such judgment may be rendered in another State is a good plea in abatement.

But in White *v.* Whitman, 1 Curt., 595, where a suit in Connecticut was pleaded in the circuit court of the United States in Rhode Island, it was held that such plea in abatement of the pendency of such suit was not good. The court said it was not good at common law, and cited 9 Johns., 221, and 12 Johns., 99, where the same was held as to a plea of a former suit pending in the circuit court of the United States in Virginia.

955 In Smith *v.* Atlantic Mutual Fire Ins. Co., 2 Foster, 21, it was held that the pendency of an action for the same cause in the circuit court of the United States of the same State was a good plea in the State court.

In Lyman *v.* Brown, 2 Curtis, 559, where a judgment in a court in Lower Canada was pleaded, the court held the original claim not merged, and that therefore the pendency of the suit could not have been pleaded, and that the law was the same as to suits in another State. All this was aside from the case; and it is hard to see what induced the learned judge to speak of the pendency of a suit, or of suits in another State. He certainly illustrated nothing by it, and deduced nothing from it. Neither point was before him, and he was not invited to express his private opinion upon those points.

956 At least he had no business to speak of suits or judgments elsewhere than in foreign courts.

But this argument proves the proposition correct that if the judgment, when obtained, will be conclusive, a merger, and pleadable in bar, the pendency of the suit is pleadable in abatement. He said: "I have considered this question" (these questions, he should have said), "in this case, because, if it is allowable for a creditor to seek two remedies at the same time in different jurisdictions, and the pendency of the first suit cannot be pleaded in abatement of the second, he ought to be allowed to conduct each of them to a judgment, since it is only by so doing he can make each effectual as a remedy."

957 In Brown *v.* Seymour, 9 Johns., 221, in deciding that pendency of a suit in a court in another State could not be pleaded, the court said that the defendant could not be compelled to pay the money twice, since judgment, at least, if not recovery, in one suit, could be pleaded *puis darrein continuance* in the other; and even if both suits proceeded to judgment and execution satisfaction of either might be shown on *audita querela*, or otherwise, in discharge of the debt.

We suppose that the same apology might be made for a decision that the pendency of another suit in the same State or same court could not be pleaded in abatement.

And it is quite clear that if *autre action pendant* is not pleadable, so neither is the judgment obtained. The party, if entitled to judgments, is entitled to seek to obtain one satisfaction by

958 means of both.

In Wood *v.* Lake, 13 Wisc., 85, the courts of the different States were held to be foreign to each other; and in Smith *v.* Lathrop, 44 Penn. St. Rep., 326, where a suit in New York was pleaded, it was held that the States were foreign to each other; and the court said that the American authorities were all one way.

The following cases have held the plea not good: Walsh *v.* Durkin, 12 Johns., 99; Mitchell *vs.* Bunch, 2 Paige, 606; Cook *v.* Litchfield, 5 Sandf., 342; Williams *v.* Ayrault, 31 Barb., 364; Salmon *vs.* Wotton, 9 Dana, 422; McJilton *v.* Love, 13 Illin., 494; Goodall *v.* Marshall, 11 N. Hamp., 99.

Others are as follows:

In Yelverton *v.* Conant, 18 New Hamp., 125; the court held that there was nothing to distinguish cases in which actions are
959 simultaneously pending in courts of different States of the Union from cases in which the different States are wholly foreign to each other, and said that it was often important for the creditor to commence proceedings in two different jurisdictions.

DeArmond *v.* Bohn, 12 Ind., 607, and Eaton & Hamilton R. R. Co., *v.* Hunt, 20 Ind., 357, cite other cases, and decide without argument.

In Salmon *v.* Wootton, the point was very fully argued. The court said that a judgment in Indiana would not give satisfaction in Kentucky; that it could not be levied or enforced there, &c.

In Smith *v.* The Atlantic, &c., 2 Foster, 21, the court assigned as the reason why the pendency of a foreign suit could not be pleaded, that the foreign court — not enforce its orders and judgments beyond its own territory, and therefore the remedy of the plaintiff
960 by his prior suit might be incomplete.

In Hatch *v.* Spofford, 22 Conn., 485, the court gave as the true reason, that every State is sovereign, and does not acknowledge the right of any other nation to hinder its own sovereign acts and proceedings, nor will take notice of the courts, &c., of another nation. This latter reason does not apply as between the States of this Union; and as to the former, the question on such a plea is not affected by it, because the pleader does not rely in pleading an action pending, on any action done by the foreign court, to hinder the domestic one, but on the act, and the effects of the act of the party himself, in submitting his controversy voluntarily to another and a competent forum. This decision, compared with that which
961 it overrules, proves that Ulpian was right in saying, "*Neque enim utique melius pronumtiat qui novissimus sententiam laturus est.* For, as he said, "*Non una quam bene latas sententias in pejus reformat.*"

In Cox *v.* Mitchell, 7 C. B. (U. S.), 45, the court said that there would be great danger in interfering to prevent a man being sued in England, when he might have left his own country for the very purpose of avoiding the consequences of a suit against him there; and that no such plea had ever been sustained. And that was true as to suits in foreign courts.

In Drake *v.* Brander, 8 Texas, 351, the plea of an action for the same cause pending in Arkansas did not show that the plaintiff could obtain satisfaction in his suit in Arkansas. The court held the plea bad, saying that a judgment in Arkansas would not
962 give a lien upon property in Texas.

2nd. The courts have assigned, it will have been seen, different reasons for declining to receive the plea of an action pending by and against the same party for the same cause in another State. It will have been seen, too, that the arguments of different courts would lead to opposite conclusions.

It seems to be uncertain whether a foreign judgment is conclusive. It is certain that a judgment in one of our States is conclusive in every other; and then the argument of some of the courts is

that, if the judgment could be pleaded, or would be conclusive, so, too, would the pendency of the suit be.

As to the judgment in another State not being a lien elsewhere, judgments in England are not liens, and there are courts
963 there on whose judgments execution cannot run to all parts of the Kingdom, or even of England; and yet it is held that one suit pending in England may be pleaded to abate a subsequent one between the same parties for the same cause.

If in any case the reasons assigned do not at all apply, then the rule itself ought not to be deemed applicable.

None of them apply where each suit is for marshalling assets and determining the priority and precedence among the same claims. There is here only the right to be settled, and no remedy by execution or other process to be given. There is to be no judgment that will operate as a lien. The court in Arkansas is not hindering the court in Kentucky. These very parties have gone there and asked that court to settle these rights for them; and it is not tol-
964 erable that the assets there shall be distributed, at their instance, by one rule and by one equity, and here by another rule and another measure of equity.

If each court decrees and the decrees radically differ, which is to prevail? Each will be of the same dignity. There will be no satisfaction in one case to be pleaded by *auditâ querelâ*, or otherwise, in the other. Each will stand and be enforced within its jurisdiction. If Woolfolk denied in Arkansas a share or amount which would be his under the decision here, comes here to have deductions made from Todd's share of the assets here, for what he has lost there, and it is done, Todd may go back to Arkansas and demand diminution of Woolfolk's share there to the extent to which it may have been increased here.

Perhaps the court in Hatch *v.* Spofford indicated the remedy
965 when it said that the pendency of an action abroad might be for staying proceedings, but not to end the suit.

In Imlay *v.* Ellefsen, 2 East., 453, Lord Ellenborough said: "The question here is, whether we have presented to us with sufficient distinctness, that the defendant stands in the situation of having been holden to bail in Norway, so that the plaintiff has the same security for his demand, and might have all the benefit of prosecuting his suit there which he has here. And as we do not see that such is the case, we do not feel ourselves warranted in taking from him the benefit he is entitled to from the laws of this country."

In the case in Kentucky the complainant Woolfolk has voluntarily applied to a foreign forum to have the lands and
966 other property and choses in action of the estate of Craig placed in the hands of a receiver, sold by him and converted into cash, and the fund so created marshalled and distributed according to the equitable rights of the parties. He is a complainant there, jointly with the other creditors, the bill being a creditors' bill, and exhibited in a court of chancery of ample original jurisdiction. The receiver has been put in possession and has sold the lands, and is collecting the assets. The court there is about to perform its duty

by marshalling the assets, and is invoked to take into consideration and will bring into the general account whatever may be received for the lands in Kentucky and Tennessee. Having all the parties before it, it will adjudicate the whole case.

There is no necessity for any other action of the court of
967 Kentucky than a decree to sell the lands in Kentucky, and held the proceeds subject to the final decree of distribution in Arkansas. It will not, we think, entertain a second suit for the marshalling of the assets. It is unnecessary, unless it is to marshal them by a different rule, and to do that will be either unavailing or mischievous, for if Woolfolk should receive a proportion of the funds in Kentucky, deemed undue by the court in Arkansas, and that court cannot correct this altogether by giving the other creditors his portion of the assets in Arkansas, it can render a personal decree against him, which will be conclusive when sued on in Kentucky, and thus compel him to refund. He cannot escape from the jurisdiction of that court, even if he can in Kentucky ask
968 for and have one rule of distribution and marshalling, and in Arkansas another.

In Wells *v.* The Earl of Antrim, before Lord Cowper, cited in Foster *v.* Vassal, 3 Atk., 588, a plea of a suit for the same cause, pending in the court of Exchequer in Ireland by bill between the same parties, was holden good, but the chancellor held that the second suit would be allowed to proceed if the first became impracticable.

The suit in Arkansas has not become impracticable, and as a suit for marshalling the assets, it is the prior suit. That in Kentucky was at first, and until after that in Arkansas was instituted, merely a suit by Woolfolk alone, to which the other creditors were not made parties, not to have the assets or the moneys received from the lands in Kentucky marshalled, but to have Woolfolk's own claims paid in full.

969 In Bayley *v.* Edwards, 3 Swanst., 703, a bill was filed in 1776, in chancery, in England, by Bayley against Edwards and others, for an account of the personal estate of a testator and of the produce of his real estates. There was order of reference as to some branches of the account, and an award on inspection of papers in Jamaica. In 1784 there was a decree to account.

In 1787 Edwards filed his bill in the court of chancery in Jamaica, in regard to the same property, and to have the account adjusted. The decree in England was pleaded, and the plea overruled.

Lord Camden said: "This is a case of a second suit in a court which is a foreign court, inasmuch as this country has no process to enforce its decrees in the islands. Foreign sentences are not conclusive bars here, but only evidence of the demand.

970 "The parties ought to be answerable to every court possible, where they are traveling from country to country, and we must then endeavor to correct the mischief of these double suits, as much as we can, by allowing in each country the benefit of all the other proceedings in the other part of the King's dominions; and

this should be introduced by supplemental bill, or insisted upon by answer, as the occasion may require."

In Ostell *v.* Lepage, 16 Jur., 404, 10 Eng. Law & Eq., 250, there was, to a bill in England, plea of a bill and decree in India.

The court said that it would stay proceedings (where an action at law was pleaded in bar of a suit in equity) upon a proper application; but that a defendant could not plead a pending action for the same matter, in bar to a suit in general cases.

The plaintiff there had sued in Calcutta; pending that
971 suit the defendant came to England, and was sued there also.

The court said: "Must the plaintiff still go on in India? The difficulties are serious. He could have no direct process of contempt to carry out the matters of the suit in India. If injunction were granted there, it would be of no use here without a suit to enforce it. It would be the same if a receiver were appointed. Both suits would go on. When decree final is obtained there, that may be used here. The defendant could then apply to stay proceedings, and the court would have no difficulty in putting the plaintiff on terms."

That case, we think, indicates what the court in Kentucky should do. We do not plead the suit pending in Arkansas. We bring it to the notice of the court for such action as it may require.
972 That suit is for the marshalling of all the assets of the estate

This is to have those in Kentucky alone distributed, when the claims of all the parties have been partially paid in Arkansas, and are all merged in judgments there against the estate. This is, therefore, in reality, an ancilliary suit, as the administration in Kentucky is an ancilliary administration. It will therefore be proper, as well as safe, for the court so say: "The pendency of the suit in Arkansas cannot be pleaded here to end this suit. Both may go on. When the lands here shall have been sold, we will wait until there is final decree in Arkansas; then, that may be used here. Then the proceedings here may be stayed, and we will have no difficulty in putting the complainant on terms."

Certainly Todd may claim, with all the others, that he ought not to be *bis vexatus* for the same cause when not one of the rea-
973 sons given by the courts for allowing two suits and two trials of the same questions justifies that in this case.

These are the views that occur to me on these questions. On the others I subjoin a few notes.

The principal administration of an estate is in the decedent's place of domicil. In this case the domicil and the great bulk of the estate were in Arkansas. See Story Confl. of Laws, § 518.

It is true that the general rule is that the rule of preference of debts is purely local, and not admitted in other States where there are no such preferences. Story Confl. of Laws, § 525.

But what we ask for is the case or the writer that holds that these foreign preferences will not be regarded where the local credi-
974 tors have not chosen to rely on the laws of their own State altogether, nor retained their original causes of action, but have gone to the other or foreign State, preferred their claims

against the assets there, put them in judgment, merged them in judgments, the order of payment and the preferences among the same have become *res adjudicatæ*, and they have received in part their share of the assets there, and are there insisting on payment of their proportion, according to the foreign law, of all the assets there remaining.

Where the entire estate will not pay all the creditors in full, it is more common to make only a *pro rata* payment to local creditors in place of ancillary administration. Davis *v.* Estey, 8 Pick., 475; Miller's Estate, 3 Rawle, 312; Oliver *v.* Townes, 14 Martin, 93; Dawes *v.* Head, 3 Pick., 128; Story Confl. of Laws, § 513, M.

975 *Contra:* Full payment is to be made in the ancillary administration, and all claimants except local creditors should be referred to *to* the principal administration. Richards *v.* Dutch, 8 Mass., 505; Dawes *v.* Boylston, 9 Mass., 337.

But, in that case, can the local creditor so be paid, and the others referred to the principal administration, when the former have received and are receiving their full shares of the assets there? We want a case that sanctions that iniquity.

The distribution of the personal assets everywhere ought to be, as to preferences, in accordance with the laws of the place of domicil. Wilson *v.* Lady Dunsany, 18 Bevan, 293; Halcomb *v.* Phelps, 16 Conn., 127. But see Cook *vs.* Gregson, 2 Drewry, 286.

976 It is not unreasonable nor unjust that a nation should give to its own citizens or subjects the preference, and pay them in full the debts due them by one deceased out of the avails of the property of the estate within its power; but it need not be very much concerned to do so if these, its citizens, have gone to the forum of the domicil of the party deceased, and there preferred their claims, and had their share and proportion of the assets there, according to the foreign law; and if, in such case, one of these has received, in the foreign country, as Woolfolk did in Arkansas, payment in full of three out of five of his claims, the same being so paid there under the mistaken belief that the estate was solvent, and if he should then, at home, endeavor to avow a privilege and preference to which another debt is lawfully entitled in that foreign

977 forum, the fine and accurate sense of natural justice of Ulpian or Gainz would compel him to abide as to property in his own country the rules of distribution which he has invoked in the foreign forum, or which, invoked by others there against him, the tribunal has declared.

Where any court, foreign or domestic, that has the proper jurisdiction of the case makes the determination, it is conclusive to all other courts. Per Lord Hardwicke, Boucher *v.* Lawson, Cas. Temp. Hard., 89; Roach *v.* Garvan, 1 Ves., 157; Martin *v.* Nicolls, 3 Simons, 458; Guinness *v.* Carroll, 1 Barn. & Adol., 459; Bequest *v.* McCarthy, 2 Barn. & Adol., 951; Story Confl. of Laws, § 607.

A court of probate in Arkansas is a superior court. Its allowance of a claim against an estate is a judgment. The statute expressly

978 made it so. Digest, § 115, Administration. It made it precisely equivalent to a judgment in the circuit court on the

same claim. Id., and Dooley *v.* Walkins, 5 Ark., 705. The classification is also a judicial act, and has the force and effect of a judgment, and the court itself cannot, at another term, change the classification. Such was the law when the claims against Craig's estate were presented, allowed, and classified. Cossitt *v.* Biscoe, 7 Eng., 95.

There is nothing exceptional or novel in these decisions. It is held elsewhere that the judgments of probate courts are conclusive, like other judgments of courts of record. Woods *v.* Pettis, 4 Verm., 556; Rix *v.* Nevins, 26 Id., 384; Peabody's Petition, 40 N. Hamp., 342; McCallum *v.* Hinckley, 9 Verm., 143; Probate Court *v.* Vanduzer, 13 Verm., 135; Bank of Orange County *v.* Kidder, 20 Verm., 519; Paine *v.* Stone, 10 Pick., 75.

979 It necessarily follows that in such judgments the original claim and cause of action is merged.

Rights of Kelly & Co. in the collaterals.

A. D. Kelly and Kemper were engaged in the business of factorage, and as commission merchants in New Orleans, making advances to planters, and receiving and selling their cotton. At the beginning of the year 1858 Junius W. Craig, a planter in Chicot county, Arkansas, who had previously shipped his cotton crops to A. D. Kelly & Co. for sale, was indebted to that house only to the amount of a few thousand dollars, which was not much increased until after the first of March, but swelled between that date and the time of his death, in September, to some forty-five thousand dollars.

980 On the first of March Craig placed in the hands of the house of Kelly & Co. notes of third parties to the aggregate amount of $79,276.60, taking their receipt in these words, followed by a list of the notes, giving the amount and time of maturity of each:

"Rec'd, New Orleans, 1st March, 1858, from Junius W. Craig, Esq., as collateral on advances made and to be made, the following-described paper," with a stipulation that the house did not recognize any responsibility on their part for the paper not being duly protested.

Craig died before any of his crop for that year went to market. It was taken possession of by the administrators, and shipped by them as their property to Kelly & Co., who thus lost the right to retain for their debt out of the proceeds, as they would have

981 had a right to do if Craig himself, living, had shipped it to to them. And, accounting to the administrators for the proceeds, they were compelled to present their claim for allowance to the probate court of Chicot county.

They were thus left without other security than the paper placed in their hands.

Their rights as to this paper are well defined and settled by the law of Louisiana. We find that the law in the Civil Code (edition published in 1861), title XX, chapter II—

Art. 3122. One may, in fine, pawn incorporeal moveables, such as debts and other claims of that nature.

Art. 3124. The pawn invests the creditor with the right of causing his debt to be satisfied by privilege and in preference to the other creditors of his debtor out of the product of the moveable,
982 corporeal, or incorporeal which has been thus burthened.

Articles 3123 and 3125 were abolished by the statute of 12th February, 1852 (to be found in same edition of the Code, p. 403), by which it was thus enacted:

§ 1. When a debtor wishes to pawn promissory notes, bills of exchange, stocks, obligations, or claims upon other persons, he shall deliver to the creditor the notes, bills of exchange, certificates of stock, or other evidences of the claims of rights to be pawned; and such pawn so made, without further formalities, shall be valid, as well against third persons as against the pledgors thereof, if made in good faith.

§ 3. If a credit not negotiable be given in pledge, notice of the same must be given to the debtor.

Art. 3130. When several things have been pawned, the
983 owner cannot retake one of these without satisfying the whole debt, though he offers to pay a certain amount of it in proportion to the thing which he wishes to get.

Art. 3131. The creditor who is in possession of the pledge cannot be compelled to return it, but when he has received the whole payment of the principal, as well as the interest and costs.

Art. 3132. The creditor cannot, in case of failure of payment, dispose of the pledge, but may apply to the judge to order that the thing shall remain to him in payment for as much as it shall be estimated by two appraisers, or shall be sold at public auction, at the choice of the debtor.

Art. 3140. The debtor who takes away the pledge without the creditor's consent commits a sort of theft.

The pawn is one of the kinds of pledge. Art. 3101 and
984 Art. 3100. The pledge is a contract by which the debtor gives something to his creditor as a security for his debt.

The statute of 1852 was re-enacted in 1855, and remained in force until long after 1858; indeed, it is still in force.

Reference to the decisions in Louisiana on the statute of 1852 and 1855 will be found at page 403 of the Code. They simply state and enforce its provisions.

Kelly & Co., therefore, held the notes in question in pawn under the statute, and by virtue of the agreement shown by the receipt, as security for past and future advances. On the faith of these and the coming crop they advanced heavily.

After Craig's decease his administrators wished to get possession of this paper, it amounting to largely more than the debt of
985 Kelly & Co. They asked the advice and action of the probate court. Kelly & Co. could not be required to give up a single note until their claim had been fully paid, and they had right to take the notes in payment at an appraisement or to have them sold. The probate court saw that the administrators ought to pay Kelly & Co. and obtain the paper. It was necessary to buy it of them, for it was theirs by special property. Wherefore the court

directed their claim to be placed in the third class, as analogous to claims that are a lien on land; that is, the court authorized the administrators to pay it, as the only means of preventing the loss to the estate of a large amount, for the notes would not have been appraised nor sold in New Orleans for a fourth of their face.

The notes were delivered to the administrators. Some have
986 been collected and gone into the fund for payment of creditors. All of Woolfolk's claims, save one, or perhaps two, have been paid in full. Kelly & Co. permitted the proceeds of the crops of 1859 and 1860 to go to pay Todd, Woolfolk, and other creditors, and these creditors are now pushing in Arkansas the collection of these notes for their benefit, those of Samuel R. Walker being secured by a mortgage upon land in Chicot county, on which a bill to foreclose is pending.

The whole question, then, is this: The administrators, by direction of the probate court, these creditors neither then nor afterwards objecting, agreed to pay A. D. Kelly & Co. their claim and allowance in full if they would give up the paper. They bought the interest of A. D. Kelly & Co. in the paper at that price. The price
987 is unpaid; the other creditors have had, and are having, the benefit of the paper; and now they object, at least Woolfolk and wife do, to the payment of the price.

The probate court is thus made to have been the active instrument in a detestable fraud. Undoubtedly those who oppose the payment do not consider that they are doing any wrong; but they are in fact endeavoring to commit a most outrageous and inexcusable fraud, for they use the property of Kelly & Co., and then refuse to permit the agreed price for it to be paid. They had the benefit of all the cotton, and now they propose to leave Kelly & Co. with no security at all.

In the absence of any law of Louisiana, and if the law in force in Kentucky had to govern, the equities in favor of the claim
988 of Kelly & Co. would be the same. They would be the same in the absence of any special agreement as to the collaterals in their hands.

Lord Hardwicke said, in *ex parte* Deez, 1 Atk., 228, where there was a contest among creditors of a bankrupt: "Notwithstanding the rules of law as to bankrupts reduce all creditors to an equality, yet it is hard, where a man has a debt due from a bankrupt, and has at the same time goods of the bankrupt in his hands which cannot be got from him without the assistance of law or equity, that the assignees should take them from him without satisfying the whole debt."

The lien to retain securities is the same. Story Agency, § 368. Banks *v.* Levy, 1 McMillan, 438.

The convenience of commerce and natural justice are on the side of liens, and the courts lean that way where it is implied
989 from the usage of trade, or from the manner of dealing between the parties, or where the party is a factor. Green *v.* Farmer, 4 Burr, 2, 221. The lien of a factor extends to securities taken by him. Brander *v.* Phillips, 16 Peters, 129.

Where there is a lien, the right of retainer extends to the whole property or fund. Story, Agency, § 372; 2 Kent, 640.

As to the right of a factor to retain for general balance, and that the right is the same, whether the property consists of money, goods, negotiable paper, or other evidences of debts, see Hodgson *v.* Payson, 3 Harr. & Johns., 341; Matthews *v.* Menedger, 2 McLean, 153; Vowell *v.* West, 4 Cranch, C. C., 100; Bradford *v.* Kimberly, 3 Johns. Ch. R., 434, where it is said: "This is very equitable doctrine, especially when the acceptances and responsibilities (of the factor) were assumed, or are necessarily presumed to have been assumed, upon the credit of the property in his possession." See, also, Easum
990 *v.* Cato, 5 B. & Ald., 867.

If a person entrusted with value entrusts his creditor with that which may become productive of value, the first becoming bankrupt, the second may retain his debt out of the proceeds of the thing entrusted to him, and only pay the balance. Onve *v.* Smith, 5 Taunt., 57.

The general principle is that whenever each party has trusted the other with the possession of value, the assignees of either, he becoming a bankrupt, cannot withdraw that value from the other, but on the terms of paying the defendant what is due between them. *Id.*, per Gibbs, J., below.

An agent and factor being under liability on account of his contract with his principal, the court said: "We think that, by the general principles of law, he had a right to keep possession of all the goods purchased until he is reimbursed his advances and
991 secured against his liabilities. Stevens *v.* Robins, 12 Mass., 182. That is the law-merchant. See Barnett *v.* Brandas, 6 Mau. J. Grau, 665; Jones *v.* Peppercorne, 5 Jurist, N. S., 140; Bryce *v.* Brooks, 26 Wend., 367; Bradley *v.* Richardson, 3 Blatch., 358.

In the case under consideration, the collaterals were expressly assigned as security for advances. An equitable assignment by an order of the debtors would have been equally good. See Dickenson *v.* Phillips, 1 Barb., 454. All that is necessary is intention to appropriate the fund, or an agreement to pay the creditor out of it, and an appropriation of it by order or transfer. Hoyt *v.* Story, 3 Barb., 262; Houghtaling *v.* Marvin, 7 Barb., 412; Canfield *v.* Monger, 12 Johns., 346; Nicolet *v.* Pillot, 24 Wend., 240.

So, where there is a trust between two men, on each side, that makes a mut-al credit. Assignees of Cox *v.* Fenn, Cooke
992 Bankr. Law, 5th Ed., 554. And whenever one party, being indebted to another, entrusts the other with goods, it is a case of mutual credits. Id.

The doctrine of mut-al credits will cover all cases of lien, and also goes a great deal further. Per Gibbs, J., 5 Taunt., 60.

Here was an express case of credit given on the deposit of these securities. Kelly & Co. had a special property in them. They were theirs. The administrators, with the sanction of the probate court, purchased them for the amount of their claim against the estate. Can the other creditors have the benefit of this purchase

and of the securities, and at the same time forbid the payment of the agreed consideration?

But I do not propose to reargue the whole question.

ALBERT PIKE.

993 "EXHIBIT A P, No. 2."

WASHINGTON, 23*d December*, 1868.

WM. H. TODD, Esq.

DEAR SIR: I reached here [a] few days ago, having been in N. Orleans eight days, and in Mobile three.

Mr. Barret promised to send me to Memphis on the Thursday after I left Louisville, the interrogatories which I drew up, and the printed instructions. I did not leave Memphis until Monday afternoon, and yet the package had not arrived. From New Orleans I directed my son to send it, when received, to my friend Edward Barnett, an experienced notary public, who agreed to take the depositions of Kelly and Kemper; and I instructed Mr. Barnett to send me his account of fees when he should have taken the depositions.

I have not heard anything in regard to the matter since I
994 reached here. When you reach Louisville you had better inquire whether Mr. Barret ever has sent down the interrogatories. I should have thought he would have attended to it promptly, as I told him that I should leave Memphis for N. Orleans by Sunday.

Joshua M. writes me that he is going to remain in Chicot and engage in planting. Get duplicate of the interrogatories and you can take his testimony at Lake Village.

I shall soon prepare—

1st. The bill to overhaul Joshua M.'s accounts.

2nd. A petition in the creditors' suit for payment of the Kelly claim in preference to any other in full, and to make Woolfolk account for anything he receives in Kentucky. To do this I must have a copy of the answer I prepared and which was filed in Louisville. Have a copy made and send it to me here as soon as you can. I shall worry Woolfolk awfully, and shall claim that what the
995 estate paid him ought to have been applied proportionately to all the claims he held.

3rd. An amendment to your answer in the foreclosure case of Whitaker (for the gin, o. z.), showing that he has sued in ejectment, and claiming all advantage as are entitled to for that.

I hardly think I shall have to be in Philadelphia before the 5th January, though I would very much like to do so, and will, if I can.

Please send me the pair of Derringer pistols by express, to 217 F street.

I will not go out West until I go to the Chicot court, in April.

Truly yours, ALBERT PIKE.

EXHIBIT A. P., No. 3.

217 F ST., WASHINGTON, D. C., *6th March*, 1869.

WM. H. TODD, Esq.

DEAR SIR: Yours of 3d March is received and contents noted.

I sent, a few days ago, to the clerk of Chicot county, a petition in your name, to be filed in the creditors' suit against Woolfolk and wife, to have the Kelly claim paid, in preference to theirs, out of all the assets of the estate, those in Kentucky as well as those in Arkansas, which, I think, will increase Mr. Woolfolk's tribulation. He and his wife and Walworth's representative are all parties to the creditors' suit in chancery, and it can compel them to do what it orders. It will certainly compel them to bring in all the assets, to be distributed according to the laws of Arkansas.

I do not know how long a time the Kentucky court will allow for parties to come in and present their claims; it depends on the discretion and order of the court, I presume. The custom elsewhere is for the court to fix a time and order notice to be given.

Of course the question whether you can move the engine, gin-stand, &c., is a legal one, and to be decided by the authorities. I have no doubt that you have a right to remove them. But if you are enjoined, you must not disregard the injunction; you would get fined, and imprisoned if you did. You must obey it until we can get it dissolved.

I shall go to the Chicot court whenever it is held, but I hope not to have to go there many times more. I do not know that your business will indispensably require your presence there, though I think you ought to be at the court, and that something may occur to cause you to regret it if you should not. The cases of Miss Wright and Halliday must be tried, if we can get a trial. I wish they were settled, and out of the way. The gin case I will put off, if possible. Have you answered in the case?

I will attend to the case against the Walker property, but it may be so fixed that I cannot appear in the case in your absence. For example, if Chapman and Carlton brought the suit, I could not, unless you were there to be heard before the court, as a creditor interested in the case, and to demand, by petition, to be allowed to prosecute the case. If you are not there I will do all I can.

I hope Mrs. Todd's health will permit you to go to Chicot in April, if the court sits there. You do not need to be told that any one's business suffers less when he can attend to it in person.

Do you mean that you settled with Joshua M., the matter of his accounts as administrator, so that no suit to overhaul them is to be brought? If so, let me know. It will save me a heavy job in the way of drawing a bill, which I was about to begin.

Truly yours, ALBERT PIKE.

EXHIBIT A. P., No. 4.

WASHINGTON, D. C., 2*d June*, 1870.

WILLIAM H. TODD, Esq.

DEAR SIR: Woolfolk is, of course, not entitled to compound interest.

If you pay Miss Wright and Halliday, that, and what you pay on ac. of J. M. Craig, are expenses of administration, and it will be as if you paid into court in Chicot the amount of your bids, and these were paid out of that money by the court.

The Arkansas statute puts only one kind of claims in the 3d class, *i. e.* judgments that are liens on the real estate. No doubt
1000 the Kelly claim ought not to have been put in that class; but the probate court should have directed the administrators to procure the return of the collaterals in their hands, by paying off in full the debt which was a lien on them, to secure which they were hypothecated in Louisiana.

I claim that the Kelly debt and allowance should be paid in full, because that is substantially what the court did. By the Louisiana law, Kelly & Co. held the collaterals hypothecated to themselves, and thus their whole debt was secure. They could not be compelled to give them up until they were paid in full. They had a right to retain all of them, no matter what they amounted to, until their debt was paid in full. They consented to give them up on condition they should be paid in full, and the other creditors have had the
1001 benefit of that contract. By means of the money which should have been paid to them, two others of Woolfolk's allowances were paid off in full, when he was only entitled to a dividend. In fact the collaterals belonged to Kelly & Co. They had a property in them. They sold them to the estate and have not been paid the price, and now to refuse to pay them, in preference to all other claims, would be a gross fraud.

If Woolfolk should succeed in getting the report of the auditor on this point affirmed, you must appeal to the court of appeals in Kentucky. I want a decree there; and if he succeeds in regard to the Kelly claims in Kentucky, I will have all he gets wrongfully there refused to him in Arkansas, so that he will get none of the moneys bid by you and now in your hands.

I have no doubt we can succeed in the court of appeals of
1002 Kentucky. The question is not of the division of the property among creditors of an estate, but of carrying out a bargain made by administrators, with the sanction of the proper court, and this never complained of then by Woolfolk.

I can go to Louisville at any time almost, however, to argue the case; but how can I fix a day? Mr. Barrett must do that. I would rather it should be about the 1st of October, because I want to go to other places during July and August, and perhaps September. Let Mr. Barrett put it at as late a day as he can, and I will be there if it is at all possible.

I cannot make out the interrogatories for J. M. C., because I have no copy of the list of notes in the hands of Kelly to shape them by.

Get Mr. Barrett to have copies of the depositions of J. M. C. and of Kelly, on file at Louisville, and of the papers referred to in
1003 them, made out and send to me here, and I will send out the interrogatories as soon as I receive them, and take the testimony of both J. M. C. and Llewellyn altogether, if they live. We can examine them orally, and must, indeed, they living in the country; but we can take their depositions as a measure of precaution.

What they expect to prove will not amount to anything. All the objections to the Kelly claim are only those which I set up against you for Miss Wright; and they really amounted to nothing.

Carlton's answer is disgraceful. As soon as I get the copies which I directed sent to me, I shall file an amended supplemental bill, and so have his answer taken out of the case. For him to attack the Kelly claim is certainly the most extraordinary thing that I ever knew any lawyer do; and yet he seems to be totally unconscious that he is doing anything wrong.

1004 Remember that I am not in a hurry about the Kentucky case. I would prefer to get a decision in Arkansas first, and I will certainly not remain content with a decision against us in the chancery court of Kentucky. In the court of appeals I feel sure I can succeed.

¼ *to* 3 *p. m.*—I enclose a telegram just this moment received. I answer that it is impossible for me to be there on 4th of June. Direct them to take an appeal if decision is against us. Then I will argue the absolute question in print.

ALBERT PIKE.

EXHIBIT A. P., No. 5.

WASHINGTON, D. C., 3*d Aug.*, 1871.

DR. SIR: I suppose the Kentucky chancellor will, as I suggested, hold the moneys until the court in Chicot decides as to the
1005 right of the Kelly claim to be paid in full. That is what he ought to do; at any rate we cannot move for or hasten a further decision. I want the decision in Arkansas first. If we get that in our favor, it will be conclusive in Kentucky, and must be followed there. What I want now is a copy of the order of sale, and of the report of the sale, duly certified according to act of Congress, so that I can file it in Chicot. Write for it to be made out and sent to me. Your lawyers there will of course see that it is made out and certified right.

You must be at Chicot court on the first day. Every thing else must give way to that. If possible, we must settle everything there remains to be settled under the creditor's bill, and between you and Woolfolk and Mrs. George. I shall be there until latter part
1006 of August, and again after 15th September, until I go to Chicot.

Truly yours, ALBERT PIKE.

WM. H. TODD, Esq.

EXHIBIT A. P., No. 6.

WASHINGTON, 25 *October*, 1871.

WM. H. TODD, Esq.

DEAR SIR: I returned from Chicot Co. last Saturday. It turned out that you were not injured by not being personally at the court. Carlton made no trouble. I got rid of his interest against the estate by having an order made for you to pay, out of the fund in your hands, the two little claims of $160 and $200, allowed in favor of Saunders and somebody, in full, with interest. You must arrange to pay these at once.

1007 Major Street made no trouble about Mrs. George's claim, and admitted that if it was agreed that the notes recovered by her were to be credited as an absolute payment, it was a valid arrangement, binding on her, and what Hayes could make. I had a letter to me from Hayes, admitting that the notes were so taken, and have sent it to Gen'l Reynolds.

I had every matter under the creditor's bill referred to Reynolds as special master. He is to examine and report—

1st. Whether the Kelly claim is entitled to be paid in full.

2nd. What is due on the claim of Mrs. George, and whether you can deliver to her the tax titles.

3. The amount of assets, including proceeds of sales in Kentucky, as to which I filed transcript of decree of sale on report of sale there.

1008 4th. What fee Carlton is entitled to in the suit against Walker, upon the record and oral evidence. You must have Carlton's claim resisted before him, on the ground of his betrayal of duty or neglect of the suit. The record and his answer show all the facts.

You are ordered to pay over to Fry, the receiver, out of the fund in your hands, $500, to pay expenses of survey and other expenses to which he may be put as receiver.

The receiver was ordered to employ counsel in the Walker case, and has employed Gen'l Reynolds. In the matter of the Memphis property, he is ordered to continue the employment of Adams & Nixon, or employ other counsel.

To save your part of the expense, I filed an account against the estate and fund for $500 fee in the Walker case, and $500 for bringing the suit in Memphis. These were referred to Gen'l Rey-

1009 nolds, and you must be ready to pay them in March. I shall be at the court then, and go from it to California, and I must have the money to go with.

The master (Reynolds) is to take Joshua's testimony as to the Kelly matter, and report on the law and fact. He has my brief in Louisville.

In March I mean to take a final decree that will close your business. That decree will be enforce-able personally in Kentucky against Mr. Woolfolk. Mr. Roberts informed me that you could appeal (within 3 years) from the order of sale there. I think you had better

do it, to keep Woolfolk's attention fixed on his case there, if for nothing else. The property sold too low, anyhow.

If you find I have omitted any information you wish, let me know.

1010 The Halliday case was not tried. Capt. Smith gave me a draft for $200. It was all the money I secured there.

Truly, yours, ALBERT PIKE.

Endorsed: Opened & published by order of court February 1, 1881. Ralph L. Goodrich, clerk, by W. P. Feild, D. C.

It is hereby admitted and agreed that the estate of Wm. H. Todd, deceased, is insolvent, and that this agreement and admission may be regarded as evidence on the final hearing of said cause.

U. M. ROSE,
For Plaintiff.
F. W. COMPTON,
For Defendant.

1011 UNITED STATES OF AMERICA, *Eastern District of Arkansas:*

Be it remembered that at a circuit court of the United States of America in and for the eastern district of Arkansas, begun and holden on Monday, the 24th day of October, anno Domini one thousand eight hundred and eighty-one, at the United States court-room, in the city of Little Rock, Arkansas, the Honorable Henry C. Caldwell, district judge, presiding and holding said court, the following proceedings were had, to wit, on November 2, 1881:

Final Decree.

JOSEPH F. WOOLFOLK
v.
BEN. H. SMITH, and L. H. SPRINGER, as Adm'r of Wm. H. Todd, Deceased.

On this day duly came the plaintiff, by U. M. Rose, his solicitor, and also came the defendants, by F. W. Compton, their solicitor, and this cause having been argued and submitted, and taken under consideration, and the court being now sufficiently advised in the premises, the court finds that on the 27th day of October,

1012 1868, William H. Todd executed to the plaintiff his two promissory notes, both dated on that day, each for the payment of four thousand two hundred and forty-three dollars and twenty cents, payable in one and two years after date respectively, with interest from date until paid at the rate of ten per centum per annum; and that on the same day said Todd executed to the plaintiff his mortgage of that date, by which he conveyed unto him and unto his heirs forever the following lands, lying in Chicot county, Arkansas, comprising what is generally known as the Bellevue plantation, and described, according to the public surveys, as the south half of the south half of section four (4), con-

taining 160 acres; the south diagonal half of the north half of the south half of section four (4), containing 80 acres; all of frac-
1013 tional section five, containing 648.71 acres; the east fractional half and southwest quarter and the south half of the northwest quarter of section six (6), containing together 565.60 acres; all of fractional section seven (7), containing 640.71 acres; the west half of section eight (8), containing 320 acres; the west half of the southeast quarter of section eight (8), containing 80 acres; and the northeast quarter of section eighteen (18), containing 160 acres; all in township fifteen (15) south in range one (1) west; and that said mortgage was conditioned that said conveyance should be void if said moneys in said promissory notes should be paid according to their tenor and effect; otherwise, that the same should remain in full force and effect; and that said mortgage was filed for record in the office of the recorder of Chicot county, on the 29th day of
1014 October, 1868, and that after that date all the right, title, and interest of said William H. Todd in said lands passed from him and vested in said defendant, Ben. H. Smith, in fee-simple, but subject to the lien of said mortgage; and that there is now due and unpaid on the debt secured by said mortgage to the plaintiff the full sum of nine thousand seven hundred and forty-three dollars, to bear interest from this date until paid at the rate of ten per cent. per annum; and that said debt constitutes a lien on said lands superior to any claim or equity of the defendants, as from the date of filing of said mortgage in the office of the recorder, as aforesaid.

It is therefore by the court now ordered, considered, and decreed that unless the said defendants shall pay here into court,
1015 within forty days from this date, the said sum of nine thousand seven hundred and forty-three dollars in satisfaction of said lien, the commissioner of this court shall proceed to sell said lands in a body at the front door of the building in which this court is held, on the corner of Fourth and Main streets, in the city of Little Rock, on some day to be fixed by him, between the hours of nine o'clock a. m. and three o'clock p. m., to the highest bidder, on a credit of three months, bond and approved security being required of the purchaser, and a lien being retained on said land for the payment of the purchase-money, notice of the time, place, and terms of said sale being first given by advertisement in some newspaper published in the city of Little Rock, and by printed advertisements put up at the door of the court-house of Chicot county and on the
1016 land to be sold, twenty days before the date of sale; and it is further ordered that said purchase-money be paid here into court, and that the defendant pay all the costs of this suit, and that Fay Hempstead be appointed a commissioner herein to carry this decree into effect, and that he report his proceedings herein to the court, and this cause is reserved for further directions; and said defendants pray an appeal to the Supreme Court of the United States, which is granted, and that on the giving of of a supersedeas bond in the sum of one thousand dollars, to be approved by the court, the execution of this decree be suspended until the hearing of this cause in the Supreme Court.

And on November 28, 1881, the following proceedings were had:

1017 Come the defendants, by Compton, Battle & Compton, Esqs., their solicitors, and file herein their bond for appeal, which is filed and approved by order of the court. Which bond is as follows:

Circuit Court of the United States for the Eastern District of Arkansas.

JOSEPH S. WOOLFOLK
vs.
BEN. H. SMITH, and L. H. SPRINGER, as Administrator of the Estate of WILLIAM H. TODD, Deceased.

Know all men by these presents that we, Ben. H. Smith, and L. L. H. Springer, as administrator of the estate of William H. Todd, deceased, and —— are held and firmly bound unto Joseph S. 1018 Woolfolk in the sum of one thousand dollars, to be paid to the said Joseph D. Woolfolk, his executors or administrators; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this *this* —— day of November, A. D. 1881.

Whereas the above-named Ben. H. Smith, and L. H. Springer, as administrator of the estate of William H. Todd, deceased, have appealed to the Supreme Court of the United States to reverse the decree rendered in the above entitled suit by the circuit court of the United States for the eastern district of Arkansas, sitting in chancery:

Now, therefore, the condition of this obligation is such, that if the above-named Ben. H. Smith, and L. H. Springer, as admin- 1019 istrator as aforesaid, shall prosecute their said appeal to effect, and answer all damages and costs if they shall fail to make good their appeal, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

Witness our hands and seals, the day and date first above written.

BENJ. H. SMITH. [SEAL.]
L. H. SPRINGER. [SEAL.]
JOSHUA SAYER. [SEAL.]
L. C. BRYAN. [SEAL.]

Endorsed: Filed and ordered to be approved by the court November 28, 1881. Ralph L. Goodrich, clerk.

1020 UNITED STATES OF AMERICA,
Eastern District of Arkansas:

I, Ralph L. Goodrich, clerk of the circuit court of the United States for the eastern district of Arkansas, in the eighth circuit, hereby certify that the foregoing writings annexed to this certificate are true, correct, and compared copies of the original remaining of record in my office.

In witness whereof, I have hereunto set my hand and seal of said court, this 14th day of March, in the year of our Lord one thousand eight hundred and eighty-two, and of the Independence of the United States of America the one hundred and 6th.

Attest: [SEAL.] RALPH L. GOODRICH, *Clerk.*

Endorsed on cover: E. Arkansas C. C. U. S. No. 241. Ben. H. Smith, and L. H. Springer, as administrator of William H. Todd, deceased, appellants *vs.* Joseph S. Woolfolk. Filed 17th July, 1882.

13-143

Office Supreme Court U. S.
FILED.
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JAMES H. McKENNEY,
CLERK.

In the Supreme Court of the United States.

BEN. H. SMITH, AND L. H. SPRINGER, *as Administrator of the Estate of William H. Todd, Deceased, Appellants,*

v.

JOSEPH S. WOOLFOLK, *Appellee.*

Appeal from the Circuit Court of the United States for the Eastern District of Arkansas.

BRIEF FOR APPELLANTS.

F. W. COMPTON, Attorney for Appellants.

UNION PRINTING COMPANY, LITTLE ROCK.

In the Supreme Court of the United States.

BEN. H. SMITH, AND L. H. SPRINGER, *as Administrator of the Estate of William H. Todd, Deceased, Appellants,*

v.

JOSEPH S. WOOLFOLK, *Appellee.*

Appeal from the Circuit Court of the United States for the Eastern District of Arkansas.

BRIEF FOR APPELLANTS.

The record in this case is voluminous, but the facts necessary to a determination of the questions involved are comparatively few and simple.

STATEMENT OF FACTS.

At a sale under a decree of the Circuit Court in Chancery of Chicot County, Arkansas, rendered in a cause therein pending, under the style of *The Creditors of Junius*

W. Craig, deceased, against Emma J. Wright, as executrix of the last will and testament of Junius W. Craig, deceased, et al., William H Todd became the purchaser of certain lands, known as Bellevue Plantation, upon the undivided one-fourth part of which there was a lien to secure the payment of certain indebtedness due from the estate of Craig to Joseph S. Woolfolk and Lucy D., his wife, in right of the said Lucy D. Under the decree all the lands of the estate of Craig, lying in the State of Arkansas, were ordered to be sold for cash in hand, and the proceeds of such sale distributed among the creditors of the estate, and where any of the land was incumbered by a specific lien, the same was to be sold so as to satisfy such lien, and convey to the purchaser thereof an unincumbered title thereto in fee simple; hence the lands known as Bellevue Plantation were not only sold under the decree directing the sale of the lands of the estate generally for the purpose of distribution, but were also sold under the lien held by Woolfolk and his wife, Lucy D., as upon foreclosure, thus passing to the purchaser not merely the equity of redemption but the title in fee simple absolute, released of the lien; and inasmuch as by force of the decree the one-fourth part of the purchase money belonged absolutely to Woolfolk and his wife, Lucy D., as the fruits of their lien, and was ordered to be paid to them, they, by their solicitors, appeared in open court and agreed to accept therefor the notes of Todd, and consented that title to the undivided one-fourth part of Bellevue Plantation might be made to him in fee simple absolute, under his purchase. *Record, pp. 6, 7, 138, 139.*

Pursuant to this agreement Todd, on the twenty-seventh day of October, 1868, executed to Woolfolk his two promissory notes, each for the payment of four thousand two hundred and forty-three 20-100 dollars, payable in one and two years after date, respectively, and on the same day, to secure the payment of the notes executed his mortgage to Woolfolk, not only on the undivided one-fourth part, but on the *whole* of Bellevue Plantation. The promissory note first falling due was paid at maturity; and Woolfolk, after having recovered judgment against Todd in the Circuit Court of Owen County, in the State of Kentucky, on the note last falling due, filed the bill in this case on the twenty-seventh day of October, 1879, against Ben. H. Smith, and L. H. Springer, as administrator of the estate of Todd, to subject the lands described in the mortgage to the payment of the judgment so recovered; Smith having succeeded to all the right, title and interest of Todd in said lands, by conveyance made by Todd, and by purchases under execution in his lifetime.

Todd and Woolfolk and his wife, Lucy D., in right of the said Lucy D., were creditors of Craig's estate in large amounts, and as such were co-complainants in the cause styled the creditorsof Junius W. Craig, deceased, against Emma J. Wright, as executrix of the last will and testament of Junius W. Craig, deceased, *et al.*, which was a creditor's bill to marshal the assets of said estate, and to subject the same to the payment of the debts thereof; and, by appropriate allegations therein contained, gave the complainants and all others, the creditors of said estate,

day before the Master in Chancery, to the end that they might be permitted to present and establish their claims, and that the same might be classified, that all specific liens might be enforced, and that the assets of said estate might in proper order be equitably distributed among the creditors thereof. *Record, pp. 59 to 70, and 106 to 123.*

Woolfolk and his wife, Lucy D., in right of the said Lucy D., continued as parties complainant in the cause from its commencement to its determination, and for a part of the time participated actively in the prosecution thereof, the said Woolfolk becoming surety on the bond of the receiver appointed therein. *Record, pp. 134, 135.*

On the twenty-third day of January, 1880, a final decree was rendered in said cause, distributing the assets of the estate, whereby Springer, as administrator of the estate of Todd, recovered against Woolfolk and his wife, Lucy D., the sum of thirty-seven thousand nine hundred and ninety-five dollars and sixty-five cents. *Record, pp. 274, 278.*

The decree for this sum—the same remaining in force and unpaid, and the estate of Todd being insolvent—was set up in the answers and the amendments thereto of the defendants, Smith and Springer, in this case, as an equitable set-off against the demand of Woolfolk; and it was insisted that any excess over said demand that might be ascertained should be decreed to Springer, as such administrator. And the defendant, Smith, also pleaded the statute of limitation of seven years. *Record, pp. 30, 31, 279, 282.*

Other facts bearing upon the questions presented will be hereinafter referred to in argument.

The court below decided that there was due and unpaid on this debt to Woolfolk the sum of nine thousand seven hundred and forty three dollars, which constituted a lien on the lands mentioned in the mortgage, superior to any claim or equity of the defendants, and decreed a sale of the mortgaged premises for the payment of the debt.

ASSIGNMENT OF ERRORS.

1. The court erred in refusing to set off the decree in favor of Springer, as administrator of Todd's estate against Woolfolk's claim, and in refusing to decree the excess to Springer as such administrator.

2. The court erred in holding that the lien on the lands mentioned in the mortgage to Woolfolk was not barred by the statute of limitations.

ARGUMENT.

The claim on which Woolfolk seeks a foreclosure and sale, is a judgment recovered on one of the notes that Woolfolk and his wife accepted in the place of moneys which, in the marshaling of the assets of Craig's estate, had been decreed to them, in partial payment of a claim which they held against that estate. The claim sought to be set off against the judgment is a final decree—rendered in the same cause in which the moneys were decreed to Woolfolk and his wife—to make an equal and just distribution of the assets of Craig's estate among the creditors thereof, the estate having become insolvent. Smith be-

came the purchaser of the mortgaged premises, and Todd died insolvent. For the protection of Smith the administrator of Todd's estate is willing and offers to set off the decree against the judgment. The decree is more than three fold the amount of the judgment; and Woolfolk, though the decree is against him and his wife, while the judgment is in his favor alone, in consequence of his having taken the note on which it was recovered payable to himself only, is, nevertheless, liable severally, and could be compelled to pay the whole of it. To subject Smith's lands to the payment of the judgment, and leave him to pursue an insolvent estate as a remedy for his loss, would be not only to encourage a multiplicity of suits, but would be against conscience and unjust. Under the circumstances does not equity require that Woolfolk should pay a debt he owes, by setting off the one demand against the other, rather than that such a loss should be inflicted on Smith? A court of equity, in a case calling for the exercise of its ancient jurisdiction, will set off one demand against another, even independent of the statute of set-off. And it is insisted that the principles upon which the following cases were decided show that on the facts in this case the set off ought to be allowed.

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Rutherford v. Crabb, 5 Yerg., 112.
Simson v. Hart, 14 John., 62.
Shermerhorn v. Shermerhorn, 3 Cain's R, 190, note.
Lindsey v. Jackson, 2 Paige, 581.
Graves v. Woodbury, 4 Hill, 559.
Conway v. Smith, 16 Wis., 125.
Hutchins v. Riddle, 12 N. H., 464.
Mitchell v. Oldfield, 4 Term R., 123.

It was argued in the court below, and we suppose it will be here, that the decree pleaded as a set-off is void for two reasons; first, because the court in which it was rendered had no jurisdiction of the person of Woolfolk and his wife; and second, because there were no pleadings in the cause upon which the decree could be entered.

The record shows that pending the creditor's bill—the cause in which the decree was rendered—Todd, in vacation, filed his petition, *in that cause*, in respect to the marshaling of the assets of the estate of Craig, and the preference of a certain claim of A. D. Kelly & Co. over all other claims (*Record, pp. 168 to 174*); and at the following term of the court—in April 1869—a rule was entered requiring Woolfolk and his wife, and the other creditors of the estate who had made themselves in person parties to said cause, to answer the petition of Todd on or before the third day of the next term of the court. *Record, p. 177.*

A certified copy of this rule was issued to the sheriff, who made return that he had, on the fifteenth day of September, 1869, mailed to the address of Woolfolk and his wife a true copy thereof (*Record, p. 184*); and at the succeeding term of the court—on the twenty-first day of October, 1869—Charles H. Carlton, a solicitor of the court on whom the rule had been served, appeared and filed his disclaimer, declaring himself not to be the solicitor of Woolfolk and his wife in the cause (*Record, p. 177*); and thereupon it was, on motion of Todd, submitted to the court to determine, first, whether any notice to Woolfolk and his wife was necessary of the rule entered requiring

them to answer the petition of Todd, other than the entry of the rule and order upon the record of the court in the cause; and second, whether, Carlton having until the filing of the disclaimer been the counsel of record for Woolfolk and his wife, the rule was not properly served on him as their solicitor; and the court was of opinion and decided that there had been sufficient service of the rule. *Record, p. 178.*

That the court had jurisdiction of Woolfolk and his wife in the creditors' bill there can be no doubt. They were parties complainant, and, as such, voluntarily appeared in the cause; and from that moment the court had such control over them that all its subsequent proceedings, however erroneous, were not void. The filing of Todd's petition was but a step taken in that cause; and the court had the power to decide, and did decide, that the service of the rule on Woolfolk and his wife was sufficient. This decision, if erroneous, could have been corrected on appeal, but can furnish no ground for a collateral attack on the final decree. It was not necessary, however, that Woolfolk should have had notice of the rule and order other than the entry of the same on the record of the court. As already stated, he was a party to the cause; and, as such, it was his duty to be present at each term of the court, in person or by solicitor; and, in that way, to be informed as to what proceedings were had. It was his duty to know that the rule was entered, and his fault if he did not know tt.

Freeman on Judgments, sections 126, 142, and authorities there cited.

Isaacs v. Price, 2 Dillon Cir. C., 347.

Salisbury v. Sands, Id., 270.

Cooper v. Reynolds, 10 Wall., 308.

Indeed, it is difficult to believe that Woolfolk was as ignorant of the steps taken in the cause as he pretends to have been. The record discloses facts sufficient to warrant the belief that during the progress of the cause he became convinced that, on the final hearing, he would be compelled to account for certain assets which he had received, or was about to receive, in Kentucky, and which were largely in excess of any amount he hoped to receive on an equitable distribution among the creditors of Craig's estate; and that he, from that time forward, undertook to *dodge* the proceedings of the court.

Treating the petition of Todd as part of the proceedings in the cause, there can be no question as to the sufficiency of allegations on which to found the decree. But, even independent of the petition, the allegations in the original bill and bill of revivor and supplement, were amply sufficient to sustain the decree.

The object of the proceeding was to marshal the assets of an estate which, in the progress of the cause, became insolvent, in order that claims might be established and classified, preferences declared, and specific liens enforced, and that the assets of the estate might be equitably distributed among the creditors. The original and supplemental bills were appropriately framed, with prayer that all the creditors should have day before the Master in

Chancery for the purposes above indicated. Here, in the nature of things, questions touching liens and preferences had to be considered, and an account taken; and, when the parties to the cause appeared before the Master, they did not do so as complainants, or defendants, but were there as creditors—each as an actor against all, or any of the others—and on the coming in of the Master's report, they occupied the same position before the court, regardless of their attitude as parties to the cause; and each being thus an actor for himself, the court had the power to decide, and it was its duty to decide, between the complainants, or between the defendants, as circumstances required.

Raymond v. Came, 45 New Hampshire, 201.

1 Story's Equity, section 522, and authorities there cited.

As in like cases, the mode of procedure adopted, where one of the creditors, who was a party to the cause, desired to bring before the court any particular matter which concerned him and any or all the other creditors who were also parties, was to file a petition in the cause; which was done by some of the creditors besides Todd, as follows:

By Emma J. Wright, a creditor and party defendant. *Record, pp. 184, 185.*

By William P. Halliday, as creditor and party defendant, asking payment of a claim which was contested by two of the parties complainant, Woolfolk and Todd. *Record, pp. 186, 187, 188.*

Second petition of Emma J. Wright, asking payment of a claim which had been contested by Woolfolk and his wife. *Record, pp. 189, 190.*

By A. C. George, a creditor, and party complainant, touching certain claims against Craig's estate. *Record, pp. 211 to 214.*

In all these instances the court acted on the petitions without entering any rule to answer, as it had the power to do. In the instance of Todd's petition a rule was unnecessarily entered, and was, as the court decided, properly served. Woolfolk, however, says, in his deposition, that he knew nothing of the matter, and had previously written to his lawyer that he "did not wish to have any further connection with the litigation in the Craig estate in Arkansas." He was dodging then.

Woolfolk also testifies that his wife died in 1875. The record in the cause, in which the decree was rendered against him and his wife, being silent as to the death of Mrs. Woolfolk, it was not competent to prove the fact by parol, in a collateral proceeding; and even if it appeared upon the record that she was then dead, the decree would be merely erroneous, but not void.

Freeman on Judgments, section 153, and authorities there cited.

Under the statute of Arkansas, as well as upon general principles of equity, Springer, as administrator of the estate of Todd, is entitled, on the pleadings and evidence,

Upon the facts in the record it is insisted that the lien was clearly barred.

Respectfully.

F. W. COMPTON,

Attorney for Appellants.

15-143

Office Supreme Court U. S.
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CLERK.

IN THE

Supreme Court of the United States.

OCTOBER TERM 1884. No. 241.

BEN. H. SMITH and L. H. SPRINGER, as Administrators of William H. Todd, deceased, Plaintiffs.

v.

JOSEPH S. WOOLFOLK, Appellee.

Appeal from Circuit Court of the United States

FOR THE EASTERN DISTRICT OF ARKANSAS.

BRIEF FOR APPELLEE.

Mitchell & Bettis, Printers and Binders, Little Rock, Ark.

IN THE

Supreme Court of the United States.

OCTOBER TERM 1884. No. 241.

BEN. H. SMITH and L. H. SPRINGER, as Administrators of William H. Todd, deceased, Plaintiffs.

V.

JOSEPH S. WOOLFOLK, Appellee.

Appeal from Circuit Court of the United States

FOR THE EASTERN DISTRICT OF ARKANSAS.

BRIEF FOR APPELLEE.

Leland P. Craig and Junius W. Craig owned a plantation known as the "Bellevue Plantation," and certain unimproved lands, lying in Chicot county, Arkansas, in common, equally. Leland P. Craig dying, devised one undivided half of his interest to his widow, Lucy D., who afterwards married the appellee, Joseph S. Woolfolk. Prior to her second marriage, said Lucy D. conveyed her undivided fourth interest in the lands to her co-tenant in common, Junius W. Craig, for $50,000. (Rec. 68.) By her deed

conveying the land, dated December 5, 1856, she reserved a lien, effectual as a mortgage, for the payment of a balance of the purchase money, amounting to $41,666. (Rec. 14.)

Junius W. Craig died a citizen of Arkansas, September 17, 1858. (Rec. 204.) On the 16th day of March, 1866 (Rec. 194,) William W. Frazier, as assignee of A. D. Kelly and A. D. Kelly & Co., Samuel B. Newman, as administrator of the estate of Horace F. Walworth, Joseph S. Woolfolk, the appellee in this case, and Lucy D., his wife, William H. Todd and Altona George, as executrix of the last will of Hosea George, deceased, for themselves and all other creditors of the estate of Junius W. Craig, filed their bill in chancery in the Chicot Circuit Court, against Emma J. Wright, the administrator and heir of Junius W. Craig, and many other persons, alleging an existing contest as to a will of said Craig, a former compromise decree made between various persons claiming to be heirs and devisees of Craig; alleging that various debts, including that due to Mrs. Woolfolk, had been probated against the estate, amounting in all to $236,289.34, including a debt in favor of Todd for $47,181.60, and a claim in favor of A. D. Kelly & Co. for $45,607.76, which latter had been assigned to plaintiff Frazier. The bill further alleged that by reason of the rebellion much of the property belonging to the estate had been lost, and that the compromise decree had become incapable of being carried out; that Woolfolk and wife had brought a suit in Louisville, Kentucky, for the purpose of subjecting certain property situated in that city

to the payment of their claim. The bill prayed for a sale of the property of the estate, that a receiver might be appointed, and that all of the assets of the estate might be applied to the payment of its debts.

Various answers were filed.

On the 30th day of August, 1867, the plaintiffs in the original bill, including Todd and Woolfolk and wife, filed a supplemental bill of revivor, in which they set up, among other things, that the claim of Todd was secured by a mortgage on certain lands of the estate, "and also that the claim in favor of your orators, Joseph S. Woolfolk and Lucy D. Woolfolk, being for balance of purchase money due the said Lucy D. by the said Junius W. Craig, deceased, for the purchase of her interest in the estate of Leland P. Craig, was, by the deed of conveyance for said interest, made a special lien upon all of the property thereby conveyed, being an individual moiety of the one-half of all the lands held and owned in the said county of Chicot, by the said Junius W. Craig and Leland P. Craig, at the time of the death of the said Leland P. Craig, and which said lands comprise most or all of the lands and real estate held and owned in said county by said Junius W. Craig at the time of his death, and at present composing a large proportion of his estate." (Rec. 357.)

This supplemental bill also set forth specifically the lien in favor of Woolfolk and wife, and made a copy of the deed of Mrs. Woolfolk to Junius W. Craig an exhibit. (Rec. 386, 401.) It also set up the pendency of the

suit brought by Woolfolk and wife in Louisville, Kentucky. (Rec. 387.) It prayed for the same relief prayed for in the original bill. (Rec. 398.) By consent Johnson Chapman was appointed receiver, and Woolfolk and Todd became sureties on his bond as such. (Rec. 432.)

Chapman having died, Charles W. Fry was appointed in his place, October 21, 1868. (Rec. 437.)

On the 28th day of the same month the receiver reported the sale of the lands, and that Woolfolk and wife were entitled to receive out of the proceeds of the Bellevue Plantation and the unimproved lands in Chicot county, $9,831.00. On the same day final decree in the case which adjusted the rights of the various parties was made. It recited the lien in favor of Mrs. Woolfolk, and declared the amount due to her; and then set forth that Woolfolk and wife had consented to accept the notes of Todd for that amount. The decree directed deeds to be made for the lands sold, and the compensation of Chapman was fixed. The real estate having been disposed of, the receiver was directed to collect outstanding choses in action, and to report to the next term. (Rec. 438.) Todd had bought substantially all the lands, and deeds were made to him.

Todd assumed the debt to Woolfolk, and Woolfolk accepting his assumption in discharge of the decree in his favor, Todd gave his two promissory notes for the amount due the former, dated October 27, 1868, due one and two years after date, (Rec. 38,) and executed a mort-

gage to Woolfolk of the same date, to secure their payment, conveying the Bellevue lands. (Rec. 27.)

The decree was necessarily final as to Woolfolk and wife, and that to an unusual extent, since it not only adjudicated his demand, but showed that he was satisfied in full by the acceptance of the assumpsit of Todd. This discharged Woolfolk from the record completely and forever, unless it is held that when one is once a party to a suit he is always a party until doomsday.

On the 14th day of April, 1869, an order was made in the Chicot Circuit Court in chancery, in the same case of Todd, Woolfolk, et al v. Emma J. Wright, executrix, et al, reciting that William H. Todd had filed his "petition in respect of the marshalling of the assets of the said estate, and preference of a certain claim of A. D. Kelly & Co. over all others," whereupon it was now "upon his motion, and in accordance with the prayer of said petition, ordered that Woolfolk and wife answer the petition on or before the third day of the next term, in default of which it should be taken as confessed," and that "service of this rule by letter, or on attorneys of said parties, be sufficient service thereof."

It does not appear that this order was ever served on any one, or attempted to be served, in any way. Charles H. Carlton, a sollicitor of the court, filed on the 21st day of October, 1869, a paper which recites that he had been served with "process of subpœna in this cause as attorney for Joseph S. Woolfolk." But he denied that he "is

such attorney; but, on the contrary, in the progress heretofore made in this cause, he has been attorney for said petitioner; and he disclaims any interest in said cause on behalf of said Woolfolk." (Rec. 557.) The sheriff returned that he had mailed a copy of the order to Woolfolk and wife, but to what address was not stated. (Rec. 579.) With the exception of this return by the sheriff, which was a nullity, service by mail in Arkansas being unknown to the laws, there is nothing else indicating any effort to get service on Woolfolk and wife, except the disclaimer of Carlton; and if its contents may be taken as importing verity, it shows that Todd sought to implicate Woolfolk and wife in a legal proceeding by having service made on Todd's own solicitor.

There is no statute in Arkansas, or law of any kind, recognizing the service of process "by letter" or on attorneys. Had the order of the Court been carried out it would not have bound Woolfolk.

The petition referred to in the order, filed by Todd, stated that Woolfolk and wife had brought a suit in the Chancery Court in Louisville, Kentucky, (after said suit had been brought in the Chicot Circuit Court,) against the heirs of Craig and against Todd and others, to subject to the payment of their claims certain lands lying in Louisville, and belonging to the Craig estate; that the court in Louisville had ordered the lands to be sold, and that the proceeds be brought into court, of which proceeds the court had permitted $1500, or more, to be paid over to Woolfolk; that Woolfolk was claiming in that suit that as the administra-

tion in Kentucky was ancilliary merely, the Kentucky creditors must be paid according to the Kentucky laws, and that a claim in favor of A. D. Kelly & Co., of which Todd had become the owner, which had been classed in a preferred class by the Probate Court in Arkansas, should, in accordance with Kentucky laws, stand on the same footing with other claims. It appeared by the statements of the petition that the claim of Kelly & Co. had been classed in a preferred class in Arkansas, on grounds that would be deemed fabulous if the allegations were not sustained by the record. It was prayed, in effect, that Woolfolk and wife might be compelled to account for the Kentucky assets according to the rights of the creditors as declared by the Probate Court in Arkansas, without regard to what the Kentucky courts should decide; and that they be enjoined from receiving any part of the assets in Kentucky that ought to go to the petitioner according to his statement of the rights of the various parties as recognized by the Arkansas laws. (Rec. 529.)

This was of course an entirely new suit, raising entirely new issues, between different parties, Woolfolk and wife and Todd having been co-plaintiffs in the former suit. It also related to a different subject matter; for this suit related to the property in Kentucky, whereas the first suit had related to property in Arkansas. Calling the bill "a petition," and entitling it as in the old suit, which had been forever ended so far as Woolfolk was concerned, could not alter the case.

On the 26th day of October, 1869, an order was en-

tered in the Chicot Circuit Court which can have had but few parallels. It recites the disclaimer of Carlton, and that Todd submitted, "1. Whether any notice to the said Joseph S. and Lucy D. Woolfolk was necessary to the rule entered at the last term of this court, requiring them to answer the petition of the said William H. Todd, other than the entry of the said rule and orders upon the record of the court in this case; and, 2d, whether the said Charles H. Carlton, having until the filing of said disclaimer, been the counsel of record in this case of the said Joseph S. and Lucy D. Woolfolk, the said rule was not properly served upon him as their solicitor."

This memorable order then proceeds:

"The court here is of the opinion that there has been sufficient service of the said rule."

It was thereupon declared that for the failure of Woolfolk and wife to answer the petition, all its allegations should be taken as true and confessed against them, and that Todd might proceed to take depositions on interrogatories, without further notice. (Rec. 558.)

The latter part of the order was as little supported by law as the rest of it.

The statutes of Arkansas relating to notice to take depositions are as follows:

"Sec. 2561. Depositions shall be taken on reasonable notice to the adverse party, or upon interrogatories.

"Sec. 2562. The notice must be in writing, signed

by the party giving it, or his attorney, addressed to the party on whom it is to be served, and specify the time and place of taking the deposition, and the action or proceeding in which it is to be used.

"Sec. 2563. Where the notice is to be given to the adverse party, it may be served as the summons in the action is authorized to be served.

"Sec. 2564. If neither the adverse party nor his attorney of record reside in the county where the suit is pending, the putting of such notice in the office of the clerk of such court shall be a sufficient notice." Arkansas Dig. Stat., 1874.

Altona George, as executrix of the last will of Hosea George, got herself made a party to Todd's petition, and answered it, alleging that the classification of the claim of A. D. Kelly & Co. in a preferred class was a fraud on her and on the other creditors. (Rec. 613.)

On the 4th day of October, 1871, a reference was made to a master to ascertain whether the Kelly claim had been properly classed as a preferred claim; the amount of the assets in the Chancery Court at Louisville; the value and condition of the lands in Tennessee, and various other things foreign to the present inquiry. (Rec. 723.) The master reported fully, recognizing the claim of Woolfolk and wife. (Rec. 762.) Todd excepted to the report. (Rec. 811.)

As we have seen, the last order made touching the litigation begun by Todd against Woolfolk and wife, was on the 21st day of October, 1869. (Rec. 558.) As more

than two years were to elapse before anything else was done in that case in any way touching Todd's "petition" against Woolfolk and wife, we now, in order to preserve chronological order, turn to other and intervening proceedings.

Todd had secured an order declaring that Woolfolk and wife had been duly served, and that he might take depositions without notice, both wholly unauthorized by law; but doubtless he must have been advised by counsel that however potent the errors of the court might be, after a party is in court, the court cannot acquire jurisdiction of the person of a defendant without pursuing the methods which the law prescribes. So Todd abandoned the abortive proceeding which had been rudely sketched out, and never attempted to revive it, or take any steps in it again as long as he lived. He transferred the controversy to another tribunal.

On the 16th day of October, 1875, H. G. Craig, as assignee of Woolfolk, sued Todd in the Owen Circuit Court, in the state of Kentucky, on the note last maturing. (Rec. 34.) During the prosecution of the suit the note was reassigned to Woolfolk, and, on his application, he was made party plaintiff instead of Craig. Todd answered, and also filed a counter-claim and set off, setting up precisely the same matters set up in his "petition" in the case in the Chicot Circuit Court, claiming that the Chancery Court at Louisville should have decreed that the Kelly claim was entitled to be first paid out of the funds received. He made Woolfolk and wife defendants, and prayed for judgment against them for $31,761.77. (Rec. 66.)

Woolfolk replied that he was not a party to the proceeding declaring the Kelly claim to have priority over other claims, and denied that it was entitled to a priority, and denied that it was a just debt. He asserted that Todd entered his appearance to the suit in Louisville, and there set up his claims, both as an individual and assignee of Kelly & Co., And that they were rejected by that court in the month of July, 1872; and he pleaded the decree of that Court as a bar to the counter-claim asserted by Todd. (Rec. 67.) On the 20th day of November, 1878, a judgment was rendered in favor of Woolfolk for $4,243.20, with interest and cost. (Rec. 86.)

On the 27th day of October, 1879, Woolfolk brought the present suit in the Court below, setting up the origin of the debt, the mortgage made to secure it by Todd, the decree of the Owen Circuit Court in Kentucky, and praying for a foreclosure of the mortgage. Todd in the meantime had died, and his administrator and heirs were made parties, as well as the appellant Smith, Todd's son-in-law, who had acquired Todd's title before the death of the latter. Smith answered, claiming title to the lands mortgaged, and stating the facts in regard to the origin of the debt; and asserted that Todd had conveyed an undivided half of the lands to himself on the 29th day of April, 1869, and tha the and Todd had held adversely to Woolfolk ever since that time. On the 29th day of April, 1879, Smith had bought the remaining interest of Todd in the lands under execution, and he had held all the lands adversely from that time: and so he pleaded the statute of limitation of seven years.

Smith further asserted that in the suit in the Chicot Circuit Court, "in which the said plaintiff and his wife, the said Lucy D., the said William H., in his life time, and L. H. Springer, after his death, had entered their appearance as parties thereto, coming on for a final hearing" on the 23d day of January, 1880, said court had decreed that Woolfolk and wife were indebted to said estate of Todd in the sum of $37,995,65, and that a decree was rendered to the effect that Wolfolk and wife should pay to Springer as administrator of said Todd the sum last aforesaid. The answer also asserted that the suit in the Owen Circuit Court was still pending in the court of appeals of Kentucky. This last matter may be disposed of here. The record in that suit shows that an appeal was prayed by Todd from the judgment of the Owen Circuit Court; but there is no evidence that any appeal was ever prosecuted. (Rec. 86.)

As we have seen, the "petition" of Todd against Woolfolk and wife was filed at the April term of the Chicot Circuit Court, 1869. On the 21st day of October, 1869, the court declared that Woolfolk and wife had been duly served, and authorized Todd to take depostions without notice. (Rec. 558.)

The transcript shows that Todd and various other creditors had pending controversies between themselves, which remained undetermined, and in which Woolfolk and his wife had no interest whatever. A reference to the Master was made on the fourth day of October, 1871. (Rec. 723.) This reference related only to these controversies, and in no wise to the petition of Todd against Wool-

folk and wife. The order is entitled "William H. Todd, Joseph S. Woolfolk, Lucy D. Woolfolk et al., creditors of Junius W. Craig, deceased, v. Emma J. Wright, executrix of the last will and testament of Junius W. Craig, deceased, his heirs at law, and legatees, et al." The Master was not directed to take an account between Todd and Woolfolk. The only parts of the order that could possible relate to Woolfolk and wife are as follows:

"That the said Master state and report the amount due and unpaid of each and every claim allowed against said estate by the Probate Court aforesaid not heretofore fully paid, charging against the allowances in favor of said William H. Todd and Joseph S. Woolfolk and wife, the proper credits on account of the amounts properly applied to the payment of each such allowances respectively of the sums bid by the said William H. Todd, for the two plantations known respectively as Bellevue and Yellow Bayou, under the mortgage held by the said William H. Todd, and the lien in favor of the said Lucy D. Wolfolk, stating in each case the balance unpaid, and from what time and at what rate interest has run thereon."

"4th. That the Master also report what claims and allowances against said estate have been paid in full, and the amounts and date of all payments in such cases, and what amounts, if any, on an account thereof ought to be refunded to the receiver of the assets of the said estate."

"6th. That the said Master ascertain and report the amount of the assets of the said estate in the custody of the Chancery Court of the city of Louisville, arising from sales

made by the order, of lands of said estate, in the city of Louisville, and county of Jefferson, in the state of Kentucky."

It may possibly be contended that the fourth section referred to the accounts between Woolfolk and Todd; but it is entirely too vague to uphold such a conclusion. It was not claimed then, and it is not pretended now, that the claim of Wolfolk and wife was ever paid in full; nor was any demand against him made by the receiver.

The Master was directed to file his report on the first day of the next term of the court. He did file it on the 23d day of September, 1872, covering every point referred to him. It did not purport to be a partial report; and it was not a partial report. (Rec. 741.) The Master reported that Woolfolk and wife were entitled to receive the amount of $9.831; and that they had a lien on the lands to secure the payment of that sum. (Rec. 762.)

Todd excepted to the report on the ground that the Master erred in deciding that the Kelly claim was not a preferred one. In other respects the report was confirmed, September the 23rd, 1872. (Rec. 803.)

The last order, as we have seen, relating to the petition of Todd, was made October 21st, 1869. On the 23rd day of January, 1880, more than ten years after that order was made, an order was entered under the title of the original suit, reciting that "the parties came by their attorneys," that the death of Todd was suggested, and that L. H. Springer, "an attorney of this court," had qualified as adminis-

trator of his estate; upon which it was ordered that the suit be revived in his name. (Rec. 873.) On the same day the Master who had made his final report more than eight years before that time, filed another report which was instantly confirmed, the order reciting that "no exceptions had been taken to it," which, considering the speed with which the report was disposed of, was certainly not surprising. (Rec. 876.) Of the meaning of that proceeding and its specific object there could be no mistake. As recommended by the report, the court summarily and at once rendered decrees against several persons for small sums, of no consequence to them, and a decree against one Peake, doubtless insolvent, for several thousand dollars. These matters of *inducement* having been disposed of, the court rendered a decree against Woolfolk and wife and in favor of Springer, as administrator of Todd for the sum of $37,995.-65. The Master had reported no testimony, nor did it appear that he had ever taken any; nor was the slightest intimation given of the grounds by which he reached a conclusion affecting the wrights of Woolfolk and wife for such an extraordinary amount. The Master had never been directed to inquire how much Woolfolk and wife were to pay to Springer; how much Mrs. George should recover from Woolfolk and wife, how much R. A. Goodloe should recover from Woolfolk and wife, how much Springer should recover from Peake, nor how much should be allowed various other parties mentioned in his report. He seemed to suppose that he had unlimited power over the estates of every body who had ever presented claims against the estate of Craig.

Having accomplished this remarkable result Smith and Springer were ready to file their answers in this suit, which have been for a considerable time delayed. Springer's answer will be found, Record P. 906. The replication will be found Rec. P. 912.

Woolfolk testified that in October 1868, Carlton who had become a partner of Chapman, who was the attorney of the witness, in the Chicot Circuit Court had sent him the notes given by Todd; after which he had no attorney in Arkansas. He considered that he was out of the litigation in that State. He had sent to Carlton balance of fee due for legal services. Mrs. Woolfolk lived in Kentucky, and died in 1875, before the decree was rendered against her. Witness never heard of the proceedings under which a personal decree was rendered against him in Chicot County until he was informed of it by his attorney in this cause after the beginning of this suit, after the decree was rendered. He had never had any communication with Smith about the subject matter of this suit. (Rec. 981)

It may be remarked here that there is no discrepancy between the statement made by Woolfolk and the statement made by Carlton in his disclaimer. Chapman was counsel for Woolfolk, while Carlton was counsel for Todd. There was no conflict between the interests as asserted by these two co-plaintiffs. Chapman and Carlton then formed a law partnership, after the death of Chapman, Carlton received the fees due for balance of legal services, doubtless not for himself but for the representative of his deceased partner.

James F. Robinson testified that Smith had had posession of the plantation as partner with Todd, and afterwards in his sole right. (Rec. 925.)

Defendant Smith testified that he had bought an undivided half of the lands from Todd in October, 1869. In 1876 he had bought Todd's interest in sections 6 and 7. In 1878 he had bought his interest in the other lands. He had held posession according to his titles. He had never treated the mortgage to Woolfolk as valid. (Rec. 929.)

AS TO THE ANSWER OF SMITH:

The statute of limitations would not run in favor of either Todd or Smith until there was an open and notorious denial of the mortgage to Woolfolk.

Bernie v. Main, 29 Ark. 591.
Coldcleugh v. Johnson, 34 Id. 312.
Butler v. Douglass, 3 Fed. Rep. 612.
Lewis v. Hawkins, 23 Wall. 120.

The conveyance of the lands from Todd to Smith, whether made directly, or through the intervention of an execution, was no notice to Woolfolk.

Bernie v. Main, Ubi. Sup., 595.

The fact that Smith "did not treat the mortgage as an incumbrance on the plantation," as he says in his deposition, is a matter of no consequence.

There is no evidence that Todd ever denied to Woolfolk that he owed the debt until he filed his answer in the suit in Owen county, Kentucky, on the 18th day of April,

1876. (Rec. 66.) This suit was brought October 27th, 1879. So the statute of seven years pleaded by Smith, (Rec. 102) has not barred the claim sued on.

AS TO THE ANSWER OF SPRINGER, AS ADMINISTRATOR OF TODD:

One might be curious to know what interest the administrator has in the controversy that he should appeal. Evidently his appeal must be dismissed. An amendment to the bill expressly waived a personal decree against him, (Rec. 89) and none was made that in any way affects his interest, unless it be that for costs; but his answer shows in a happy manner the theory of the defence. That answer is doubtless one of the most singular ever recorded in a judicial proceeding. He states that he has read the answer to Smith, and that he believes it to be true; and that he offers to set off against the claim of plaintiff as made in the bill as much of the decree in his favor rendered in the Chicot Circuit Court "as may be necessary to pay off and satisfy the said claim of the plaintiff; and this defendant insists that in equity he should be permitted to do so." (Rec. 906.)

Under what precise head this peculiar equity is to be classified is not apparent. As the decree cost nothing, it was perhaps natural that the administrator should feel an inclination to give it away. Doubtless he might think this a very graceful and handsome thing to do. Possibly he might regard it even as something magnanimous; but virtues of that exorbitant kind are not favored by the narrow

conventionalities of modern life. What the administrator proposed to give away was not his to give. It belonged—whatever it was—to the beneficiaries whom he as trustee represented: and it is not likely that a court of chancery will aid him to commit a *devastavit*.

AS TO THE THEORY OF THE DEFENCE AS SHOWN BY THE ANSWERS OF SMITH AND THE ADMINISTRATOR OF TODD COMBINED:

1. Whatever title Smith may have to the lands, he bought them subject to Woolfolk's mortgage. There is no contention on that point. He bought it from the original mortgagor. Now how does it avail him to say that after his purchase, and after Todd's death, the administrator of the latter recovered a decree against the mortgagee? If the claim in favor of Todd is worth anything, it is one growing out of the fact that Woolfolk got too much out of the Kentucky property, an overplus which Todd could recover as so much money had and received. As Smith acquired title subject to the mortgage, he has no right to use a demand which Todd subsequently acquired to defeat the mortgage. Possibly if Smith had shown that the consideration of the debt from Todd to Wolfolk had failed, the case might be different: but the consideration did not fail. Woolfolk and wife had a specific lien on the lands fixed by a decree, the validity and even the propriety of which is not questioned. Todd bought the claim of Woolfolk thus ascertained, and got the full benefit of it. Smith said that he bought an undivided half of Bellevue in October, 1869.

The rest of it he bought in 1878. (Rec. 930.) There is no evidence that Woolfolk or his wife ever got a cent from the proceeds of the Louisville property before Smith acquired the whole estate; nor is such a thing stated in either answer. The only evidence we have on that point is the copy of the decree of sale made in the Louisville Court in 1871, and Todd's motion on the 31st day of March, 1871; (Rec. 718) and that is no evidence, for it is only a copy of a copy, being a paper inserted in the record of the suit in the Chicot Circuit Court, and it does not show that Woolfolk and wife had received any money.

Moreover, it is conceded that the debt which Woolfolk and wife were trying to collect in the Louisville Chancery Court was a debt due Mrs. Woolfolk, for the sale of her separate property. Todd gave his note and mortgage to Woollfolk; the judgment in Kentucky on which this suit is based was in favor of Woolfolk, and this suit is by Woolfolk. But could a claim against Mrs. Woolfolk, represented by a decree rendered against her after her death be set off against Woolfolk? It is plain this could not be done if Smith himself owned the decree; which he does not. The whole theory of the defence seems to be that Smith has become subrogated in some mysterious way, which is unexplained, to the rights of Todd's administrator under a decree against Mrs. Woolfolk; and that therefore the debt due to Woolfolk has been extinguished. The proposition however stated is unintelligible as a legal one. Conceding that the decree is a valid one even as against Woolfolk himself, Smith shows no right to the decree whatever.

AS TO THE VALIDITY OF THE DECREE RENDERED IN THE CIRCUIT COURT OF CHICOT COUNTY IN FAVOR OF SPRINGER AS ADMINISTRATOR OF TODD AGAINST WOOLFOLK AND WIFE:

The decree is a nulity for several reasons:

"1. That decree was obtained by fraud. We have no doubt but that the petition of Todd was originally filed in good faith. The claim which Todd put forth so persistently, to the effect that the estate in Kentucky should be administered according to Arkansas laws, was of course fallacious. As the administration in Kentucky was ancillary, the estate there would first be applied to the payment of debts due to citizens of Kentucky.

Shegogg v. Perkins, 34 Ark., 117;
Whart. Confl. Laws, Secs. 620, 622.

Todd did not complain that the court in Louisville would not allow him to participate in the funds arising from the sale of property in Kentucky; but he complained because the court would not give a preference to the claim of Kelly & Co., which he had purchased. He alleged that a classification of claims made by the Probate Court in Arkansas was final. Of course the estate in Kentucky could only be administered according to the laws of that state.

Whart. Cofl. Laws, Sec. 623.

But however delusive the notions of Todd may have been, it is fair to suppose that he really entertained them. The proceedings taken in the Chicot Circuit Court after the beginning of this suit must be characterized in a different manner. They are constructively fraudulent, to say no

more. We have already stated the details of that transaction, and it is not necessary to dwell upon them.

2. The decree against Woolfolk and wife was void for want of notice to give the court jurisdiction. It is obvious that under the original complaint filed by Todd and Woolfolk and wife as co-plaintiffs, no decree could be rendered in favor of one of these plaintiffs against another. Perhaps no case could be found where a decree was rendered in favor of one plaintiff against another plaintiff, without adversary pleading. Such a judgment or decree would lack every element of a judicial proceeding. "Judicial proceedings cannot be valid unless they proceed upon inquiry. and render judgment only after trial." *Cooley Const. Lim., Sec. 354.*

Courts can only decide controversies submitted to them. Here there was no controversy between Todd and Woolfolk and wife. They had both joined for the purpose of procuring a common relief. It is to no purpose to say that there might have been a controversy between them not shown by the pleadings. For, to use the language of this court, "the decree of a court of equity upon oral allegations, without written pleadings, would be an idle act, of no force beyond that of an advisory proceeding of the Chancellor."

Windsor v. McVeigh, 93 U. S., 283.

As said by the court in that case the decree would be a mere arbitrary edict; because as the court said, "the courts are not authorized to exert their power in that way."

Even where a decree is entered by consent, it is void if the pleadings are not sufficient to base it upon.

Kinney v. Consolidated Min. Co., 4 Sawy., 382.

And even in the case of defendants, a court of equity cannot decree in favor of one against another when neither pleadings nor proofs show any controversy or adverse interest between them.

Graham v. R. R. Co., 3 Wall, 712

It was not claimed by counsel that a decree could be rendered in favor of Todd against Woolfolk and wife upon the original complaint filed by them jointly. They therefore filed the "petition" of Todd. This started an entirely new controversy. The original controversy related to the assets in Arkansas; the petition related to the assets in Kentucky. It was as to Woolfolk and wife a claim for money which they were supposed to be about to receive under the order of the Chancery Court in Louisville.

A cross bill filed in the suit against the plaintiff by any one except the defendant could not be prosecuted without service of process.

Walker v. Byers, 14 Ark. 252.
Horner v. Hanks, 22 Ark. 590.
Porter v. Hanson, 36 Id. 606.

There is no such thing in Arkansas as a "petition" in chancery. If the paper was anything it was either an original complaint or a cross complaint.

The service which Todd attempted to get by notice to an attorney and by letter sent by mail was wholly unknown

to the law. The following sections, taken from the digest of the Arkansas statutes of 1874, will show what was necessary to get service in a legal manner.

"Sec. 4503. A civil action is commenced by filing in the office of the clerk of the proper court, a complaint, and causing a summons to be issued thereon.

"Sec. 4504. The summons shall be directed to the sheriff of the county, and command him to summon the defendant or defendants named therein, to answer the complaint filed by the plaintiff, giving his name, at the time stated therein, under the penalty of the complaint being taken for confessed, or of defendant being proceeded against for contempt of court on his failure to do so. The summons shall be dated the day it is issued, and signed by the clerk.

"Sec. 4505. A summons shall be issued at any time, to any county, against any one or more of the defendants, at the plaintiffs request. But a summons not served shall not be taxed in the costs, unless otherwise ordered by the courts.

"Sec. 4506. With every summons the clerk shall issue as many copies thereof as there are defendants named therein, unless otherwise ordered by the plaintiff.

"Sec. 3507. In actions by proceedings at law, the time fixed in the summons for defendant to answer, shall be the day the summons is returnable; in actions by equitable proceedings, it shall be twenty days after the service of the summons.

"SEC. 4508. The summons shall be made returnable on the first day of the next term of the court, unless the term begins within ten days after the date of the summons, when it shall he returnable the first day of the term following.

"SEC. 4509. The summons and copies shall be delivered to the Sheriff or other officer authorized to execute it.

"SEC. 4510. It shall be the duty of the sheriff, or one of his deputies, to attend at the clerk's office daily Sundays excepted, to receive any process that may be issued, and the clerk shall deliver to him any process remaining in his office.

"SEC. 4511. The summons may be served:

"FIRST. By the officer to whom it is directed, unless he is a party to the suit, or unless the plaintiff, or his agent or attorney, files with the clerk an affidavit to the effect that the obtaining of the sheriff or deputy to serve the summons will occasion such delay as to render it probable that the same cannot be served in time. In which case the summons may be served by a jailor, coroner, or constable: provided, that the clerk shall endorse upon such summons, that the same may be served by such officer, and the return of such officer shall be evidence of the service to the same extent as if made by the sheriff.

"SECOND. By any person appointed by the officer to whom the same is directed, by an indorsement on the summons, whose affidavit, endorsed thereon, shall be proof of the time and manner of service.

"THIRD. By any person not a party to the action, in all actions arising on contract for the recovery of money only, whose affidavit, endorsed thereon, shall be proof of the time and manner of service.

"SEC. 4512. The service shall be:

"FIRST. By delivering to the defendant a copy of the summons; or

"SECOND. If he refuses to receive it, by offering a copy thereof to him; or

"THIRD. By leaving a copy of such summons at the usual place of abode of the defendant, with some person who is a member of his family, over the age of fifteen years.

"SEC. 4513. The return of service upon a summons must state the time and manner of service; and if a return of service by an officer is defective, he may be fined by the court, not exceeding ten dollars, and shall be liable to any person aggrieved by such defect. But the court may permit an amendment, according to the truth of the case.

"SEC. 4515. Service may be acknowledged by the defendant, by an indorsement on the summons, signed and dated by him, and attested by a witness. The affidavit of the witness shall be proof of the service.

"SEC. 4527. Where it appears by the affidavit of the plaintiff, filed in the clerk's office at or after the commencement of the action, that the defendant is:

"FIRST. A foreign corporation, having no agent in this State; or,

"SECOND. A non-resident of the State; or,

"THIRD. Has departed from this State, with intent to delay or defraud his creditors; or,

"FOURTH. Has been absent from the State four months; or,

"FIFTH. Has left the county of his residence to avoid the services of a summons; or,

"SIXTH. Conceals himself, so that the summons cannot be served upon him; or, where either of the two last mentioned facts is stated in the return by the proper officer of summons against the defendant, the clerk shall make upon the complaint an order warning such defendant to appear in the action within thirty days from the time of making the order.

"SEC. 4528. The court may make the warning order upon the requisite facts being satisfactorily shown by affidavit or other proof. Warning orders shall be published weekly for at least four weeks."

The entry of record "now came the parties, &c." can only relate to such persons as have been duly served, or who had entered their appearance.

Porter v. Singleton, 28 Ark., 483;
Davis v. Whittaker, 38 Id., 435;
Williams v. Bankhead, 19 Wall, 563.

In this case the manner which was adopted for the pur-

pose of getting service upon Woolfolk and wife is shown by the record. It will therefore not be presumed that there was any other or different manner of getting service than that thus specially shown. Presumptions have no place for consideration when the evidence is disclosed.

Galpin v. Page. 18 Wall, 366;
Settlemier v. Sullivan, 97 U. S., 444.

Even if the defendants Woolfolk and wife had been served in a way to bind them in the manner directed by the court, the service would only have been constructive and would not sustain a personal decree.

Penroyer v. Neff, 95 U. S., 714.

Of course the statutes with regard to constructive service must be strictly construed.

Gray v. Larrimore, 4 Sawy., 638, 646;
Settlemier v. Sullivan, 97 U. S., 444.

No other method of getting service was or is known to the laws of Arkansas than those indicated in the statutes above copied. It follows that the service on the attorney of Woolfolk and wife would not have been good in any case. But it is not shown that even that was done. Woolfolk had no attorney in Arkansas at that time. Certainly Todd could not get service on Woolfolk and wife by serving a notice on his own attorney. Todd never supposed that he had good service, and he never attempted to do anything farther in the case made by his "petition." He in the mean time continued to litigate the question in Kentucky.

After Todd's death, and nearly eleven years after anything had been done in regard to that petition, and after this suit had been commenced, a report was placed upon the record, purporting to be made in the original suit—made by a master in the original suit, without any instructions from the court relating to the particular matter which he assumed to report upon; a report having no visible basis; and instantly a decree was rendered against Woolfolk and his dead wife for nearly $38,000! And of this proceeding Woolfolk had never had the slightest knowledge or intimation. And this is the proceeding which the court is requested to consider as importing absolute verity! And this after Todd had litigated his preposterous claim in two suits in Kentucky, and two judgments had been rendered against him, which operated as estoppels against the administrator.

After the sale of the lands and the settlement with Todd, Woolfolk and wife had nothing farther to do with the case in Arkansas, which was kept alive by Todd and others in a contention as to the status of the Kelly claim, and other subordinate controversies, in which Woolfolk and wife had never then taken any part.

The case is not unlike that of *Grames v. Hawley, 4 McCrary, 61.* In that case a suit had been brought in New York, which was afterwards compromised and dismissed. Two years later the plaintiff served a notice on the former attorney of the defendant in New York, to the effect that he would apply to the court to have the order of dismissal set aside, on the ground that it was obtained by

fraud. The judgment was set aside, and afterwards the plaintiff recovered a judgment against the defendant for the same money; that is, what purported to be a judgment; on a transcript of which a suit was brought in Kansas. It appeared that the defendant had paid off and discharged his attorney in New York before the notice was served on him. The court held that the judgment sued on was void; and speaking of the defendant the court said:

"Must he hold himself in readiness to return to New York, and renew the litigation upon motion of his antagonist and notice to his former attorney, upon an allegation that the settlement was fraudulent? If so, for how long? Certainly not for two years. Certainly not for any period beyond the end of the term, if until that time. To hold him bound for two years to answer any motion thus made, would be in effect to compel him to have an attorney in a a foreign State during that period, whether he will or not. The consequences of being sued in a foreign jurisdiction are serious enough, without adding this unusual and unreasonable requirement."

Respectfully,

U. M. ROSE,

For Appellee.

SUPREME COURT U. S.
FILED.
JAN 10 1885
JAMES H. McKENNEY,
CLERK.

15-143

In the Supreme Court of the United States.

BEN H. SMITH, AND L. H. SPRINGER, *as Administrators of the Estate of Wm. H. Todd, dec'd., Appellants,*

v.

JOSEPH S. WOOLFOLK, *Appellee.*

Appeal from the Circuit Court of the United States for the Eastern District of Arkansas.

REPLY TO ARGUMENT FOR APPELLEE.

F. W. COMPTON, for Appellants.

UNION PRINTING COMPANY, LITTLE ROCK.

In the Supreme Court of the United States.

BEN H. SMITH, AND L. H. SPRINGER, *as Administrators of the Estate of Wm. H. Todd, dec'd., Appellants,*

v.

JOSEPH S. WOOLFOLK, *Appellee.*

Appeal from the Circuit Court of the United States for the Eastern District of Arkansas.

REPLY TO ARGUMENT FOR APPELLEE.

In reply to the argument on behalf of the appellee, it is submitted for the appellants:

Springer, as administrator of the estate of Todd, *is* interested in this controversy, notwithstanding the generous waiver of a personal decree against him. Todd conveyed to Smith, by deed, bearing date the twenty-ninth day of October, 1869, the undivided one-half of Bellevue Plantation, for the sum of nineteen thousand two hundred and

fifty dollars; in which deed Todd covenanted with Smith that he was seized in fee of said lands with full power and good right to sell and convey the same; that the same were free of incumbrances by him, done or suffered, and of all incumbrances, except the mortgage, or part thereof, executed by Silas Craig to the State of Arkansas, for stock subscribed and taken by him in the Real Estate Bank of the State of Arkansas, and that he and his heirs, executors and administrators would forever warrant and defend the said undivided half of the said lands, and of every part thereof, to Smith, his heirs and assigns, against the lawful claims of all persons whomsoever, except against such claims as might arise under and by virtue of the mortgage aforesaid. (*Record, pp. 32, 33.*)

Now, the mortgage to Woolfolk not being excepted out of these covenants, if Smith should be deprived of the lands by the foreclosure and sale asked in this cause, a liability would undoubtedly exist against the estate of Todd on the covenants contained in his deed, which Smith, by appropriate proceedings, could enforce against the administrator; hence, though a personal decree is waived, the administrator not only has the right, but it is his duty, in view of this liability and of the further fact that the demand of Woolfolk is held and asserted as a debt against the estate of Todd, but sought to be satisfied out of the mortgaged premises, to set off against the claim of Woolfolk the decree recovered against him and his wife; and, for the protection of Smith, the administrator should *especially* be required, in equity, to set off so much of the

decree as may be necessary to satisfy the debt to Woolfolk, since Todd's estate is shown to be insolvent, and Smith's remedy on the covenants in Todd's deed would therefore be fruitless.

On pages four and five of the brief for appellee, it is asserted that the decretal order made on the receiver's report, on the twenty-eighth day of October, 1868, was a "final decree in the case which adjusted the rights of the various parties," and in effect "discharged Woolfolk from the record completely and forever." This is a singular misapprehension of the record. The suit in which the decretal order was entered, was, as has been stated in the opening argument for the appellants, a creditor's bill to marshal the assets of Craig's estate, and to subject them to the payment of its debts, and to that end, to enforce such specific liens as existed on any of the assets thereof. The estate, as alleged in the original and supplemental bills, was largely indebted to Woolfolk and wife, which indebtedness, with the accrued interest thereon, amounted to the sum of $62,755.07 at the time the decretal order on the receiver's report was made (*Record, pp. 66, 109, 149*), and to secure the payment thereof, Woolfolk and wife had a specific lien on certain lands which, when a sale of the lands of the estate was directed for the payment of debts, generally, were ordered to be sold, and were sold, as on foreclosure, so as to satisfy the lien, the proceeds of the sale of which, amounting to the sum of $9,831, belonged absolutely, and was decreed to be paid to Woolfolk and wife, who accepted therefor the notes of Todd (*Record, pp. 135, 138*), leaving a residue of debt still due and unpaid

to them of at least $52,924, as to which they stood on an equal footing with other creditors of the estate who had no specific liens, looking for payment to the general assets of the estate to be distributed among the creditors on a final hearing to be had in the future; the decretal order directing the receiver to proceed to collect as speedily as possible thea vailable assets of the estate, and to enforce the mortgage and liens on lands which had been in the hands of the administrator and executrix, and of a former receiver, and to make report of his action at the next term of the court. (*Record, p. 140.*) The decree in question only related to the enforcement of the specific lien, and manifestly was not, in any sense, a final decree on the creditor's bill, as to Woolfolk and wife, or any one else.

The decretal order having been entered on the twenty-sixth day of October, 1868, and Woolfolk and wife having had the benefit of it, Todd, on the twelfth day of April, 1869, filed his petition *as a step in the cause*, as appears by the filing and contents of the petition (*Record, p. 168*), insisting that the indebtedness of the estate to A. D. Kelly & Co., of which he had become the owner, should be regarded as a preferred claim, and that the proceeds of the sale of certain lands in the State of Kentucky, a part of which had already been paid to Woolfolk and wife, and the larger part of the residue was likely to be paid to them under ancillary administration there, should be accounted for and distributed to the creditors as assets of the estate on the final hearing of the cause, according the laws of the State of Arkansas. *Record, p. 168.*

That the cause might "be made ready for *final hearing and decree*, marshaling the assets of said estate," a reference to the Master was made on the fourth day of October, 1871, (*Record, p. 226*); and the attention of this court is called to the order of reference as showing that the report of the Master, touching the several matters therein referred, would enable the court to determine all remaining questions as between the creditors, to marshal the assets of the estate and distribute the same to the creditors, and that among the matters so referred the same matter as that set forth in Todd's petition was embraced. The Master reported on the twenty-third day of September, 1872, and at that time, as shown by the report, the balance due from the estate to Woolfolk and wife, after deducting the $9,831 they had received through the enforcement of their specific lien, amounted to $59,010.40, while the estate was indebted to Todd in the sum of $46,548.08. They were both before the court as creditors and parties complainant in the cause, and an acccount as between each of them and the estate had to be taken, and any question as between themselves as creditors, had to be necessarily decided by the court. One of the questions to be thus determined was that which had been presented in the petition of Todd; that is, whether the demand of A. D. Kelly & Co. should be treated as a preferred claim, and as to the decision of that question by the Master, Todd excepted to the report. The decretal order on the Master's report states as follows:

"William H. Todd, one of the plaintiffs, having filed exceptions to so much of the Master's report in this case

as relates to the claim of A. D. Kelly & Co., comes also A. C. George, executor of the will of Hosea George, deceased, by William B. Street, her attorney, and takes her exceptions to so much of said report as relates to her claim against the said estate, and leave is given to her said solicitor to file such her exceptions, as of this day, on any future day of this term, the same to be hereafter argued at another erm, as also the said exceptions of said William H. Todd."

And, after having confirmed the report as to all matters therein considered, as to which no exceptions had been taken, the order further states, among other things, as follows:

"And the matters herein undetermined are again referred to said Daniel H. Reynolds, as special Master, for the further report, to be made so soon as the same matters are determined." *Record, pp. 250, 251.*

At the January term, 1876, the exceptions of Todd to the Master's report were sustained, and the court decreed that the claim of A. D. Kelly & Co., then owned by Todd, was a preferred claim, and ordered the same to be paid as such (*Record p. 257*), and with the view of bringing the cause to a final hearing the court, at the July term, 1879, and *before* Woolfolk brought suit in this case, made an order in the cause on the creditor's bill, directing the special Master to file his further report (*Record, p. 271*), which he did at the next term of the court; and thereupon a final decree was rendered, marshaling the assets of the estate and distributing the same among the creditors thereof, one of the results of which was the decree against Woolfolk and wife in favor of Springer, as administrator of the estate of Todd.

But it is asserted in the argument for the appellee that the filing of Todd's petition "started an entirely new controversy," and that the original controversy related only to the assets in Arkansas, while the petition related to those in Kentucky. We have already seen that the petition was not a separate and distinct proceeding, but was filed in the pending suit of the creditors, and constituted a part of the proceedings in that cause. And that the suit by the creditors related to the assets in Kentucky and Tennessee, as well as to the assets in Arkansas, abundantly appears from the following extracts taken from the original and supplemental bills:

"That Julius W. Craig, a citizen of the State of Arkansas, and resident of the county of Chicot, departed this life at Louisville, in the State of Kentucky, about the seventeenth day of September A. D., 1858, leaving as his heirs-at-law the descendants aforesaid of the eight brothers and sisters of his father, and the aforesaid five brothers and sisters of his mother; and owning, at the time of his death, a large estate of lands, slaves and personalty in the said county of Chicot; his lands were consisting chiefly as to value of two plantations, called Bellevue and Yellow Bayou, and also valuable lands in the counties of Phillips, Desha, Monroe and Crittenden, in this State, and valuable real estate in the city of Louisville and in the county of Jefferson in Kentucky, and in the city of Memphis, in Tennessee, which estate came to him chiefly by descent, in part from his father and in part from his brother, who died before him.

They further say that the Bellevue plantation consisted of about 3,500 acres of land, and upon it were about one-hundred and fifty negro slaves and much personalty; and the Yellow Bayoue plantation consisted of about four thous-

and acres of land, on which were about sixty slaves and much personalty, and the lands owned by him in other counties of Arkansas were in quantity about 20,000 acres, and chiefly unimproved. The real estate in Kentucky was worth about $75,000, and that in Memphis about $15,000; the slaves were appraised to the sum of $182,400; the personalty to that of $33,404.25, and the choses in action amounted to the sum of $121,659.15, making the total value of slaves, personalty, cash and choses in action $337,463.40, while the lands were worth, in the whole, about half a million of dollars." *Record, pp. 62, 63.*

"Meanwhile, and before the October term, A. D. 1860, of this court, claims against the said estate had been presented, allowed and closed (classed) in the probate court aforesaid, to the amount of two hundred and thirty-six thousand two hundred and eighty-nine dollars and thirty-four cents, ($236,289.34.)" *Record, p. 65.*

Among the allowances was the claim known in the cause as the A. D. Kelly & Co. claim, and also the claims of Todd and of Woolfolk and wife. *Record, pp. 65, 66.*

"And your orators and oratrices will hereafter file in court here, or before the Master, the evidence of said allowances by the probate court, and statements of the amounts paid on those wherein payments had been made, whenever they may be ordered, required or permitted to do so, whereby any error, mistake or omission in the statement of allowances and payment hereinbefore made may be corrected." *Record, p. 66.*

"Your orators and oratrices further represent that the said Emma J. Wright has instituted suit in the Chancery Court of Louisville, in the State of Kentucky, and on the Chancery side of the common law and Chancery Court of Memphis, in the State of Tennessee, to enforce the pretended lien upon the realty in these States, which she claims to

have under said compromise decree upon the same, to secure the said notes given her by the said Joshua M. Craig and John Anderson Craig, and seeks to have sale of said realty to satisfy said liens and part of said notes.

In which suit in the Chancery Court of Louisville your orator and oratrix, Joseph S. and Lucy D. Woolfolk, have intervened by petition to have their said debt, probated and allowed, as aforesaid, first paid out of the said realty in Kentucky, and in the said suit on the Chancery side of the common law and Chancery Court of Memphis, your oratrix, Altona C. George, as executrix as aforesaid, has intervened by petition to have the said debt due said Hosea George, and which has been probated and allowed, as aforesaid, in the fourth class, first paid and satisfied out of said realty in Memphis. All of which said suits are still pending in said courts.

And the said realty in the city of Memphis has been sold for city taxes under a judgment of the said common law and Chancery Court, and purchased by and conveyed to the said William D. Ferguson." *Record, p. 69.*

" And that your orators and oratrices may have the specific relief prayed for by said original bill; that is to say, and they do here again pray that said estate may be taken charge of by this court, and the assets thereof marshaled and applied to the payment of the just debts; that the respective mortgages and liens of your orators and oratrices on the specified property of said estate may be enforced, and that said estate may be decreed to be sold, and the proceeds thereof paid into court here to be marshaled and applied to the payment of the several liens and claims in their proper order and classification, and that the said Emma J. Wright may be relieved of the administration of said estate." *Record, p. 122.*

So, even if the petition of Todd had never been filed,

there were allegations in the original and supplemental bills sufficient to sustain the decree as between Todd and Woolfolk and wife. No attempt has been made to charge or prove fraud in procuring the decree, and any effort to that end would have been futile. Many of the objections urged to it, are merely alleged errors in the proceedings, which, if they existed, should have been corrected on appeal to the Supreme Court of Arkansas, and are out of place in a collateral attack on the decree. The only argument that can avail the appellee here, is to show that the decree is absolutely void; and for that purpose the decisions of this court in *Windsor v. McVeigh, 93 U. S., 274*, and *Graham v. Railroad Company, 3 Wall., 704*, are cited and relied on. Neither of these cases has any application. In the former, the general rule that where a court has once acquired jurisdiction, it has a right to decide any question which arises in the cause, and its judgment, however erroneous, can not be collaterally assailed, is laid down, and certain qualifications in its application are referred to; but the case before the court does not fall within any of those qualifications. In the latter, no assets were to be marshaled, and no account was to be taken, as here, affecting the rights of the defendants, as between themselves; and in the nature of the case, and upon the pleadings, no issue existed or could arise between them.

This court will observe that the firm of Chapman & Carlton signed the original and supplemental bills, as solicitors, that firm alone signing the supplemental bill. (*Record, pp. 70, 105*); and if Carton was discharged by Woolfolk prior

to the service of the rule, there is no evidence in the record that the court, or the other parties to the cause had any knowledge of it.

Woolfolk, actuated by motives of unfairness, willfully absented himself from the court, for surely no lawyer connected with the cause was so ignorant as to advise him that the decree enforcing his specific lien on a *part* of the assets of the estate, and through which he received only a *partial* payment on his claim, was a *final decree* in the cause, *as to him*. Having thus abandoned a cause in which he was a party plaintiff, and from the institution of which he had received a benefit, does he now, when asked to bear a burden imposed by the court in that cause, stand in an attitude to complain, in a collateral proceeding, about a want of notice?

It has been conceded in argument that Todd was inclined to be somewhat conscientious, and that the cause went on nicely until Woolfolk enforced his specific lien; but that from that time forward, the speeding of the cause to a final hearing—which occurred about twelve years afterwards, in consequence of almost interminable litigation touching some of the assets of the estate—has been characterized as a *constructive fraud*. How? Was the cause to stand still because Woolfolk chose not to attend court? Was it improper for the court to proceed and do justice to the other creditors, because Woolfolk had discharged his solicitor; and, in his own language, "did not wish to have any further connection with the litigation in Arkansas?" The proceedings were regular in every re-

spect, and there is no evidence showing that any one of the creditors sought an undue advantage of the others, except Woolfolk, himself; and it is hoped that, in the end, he will fail.

Respectfully,

F. W. COMPTON,
For Appellants.

15-142

SUPREME COURT U. S.
FILED
JAN 24 1885
JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States.

Ben. H. Smith, and L. H. Springer, as Administrator of the Estate of William H. Todd, Appellants,

vs.

Joseph S. Woolfolk, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

ADDITIONAL BRIEF FOR APPELLEE.

Printed by Mitchell & Bettis, Printers and Binders.

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ADDITIONAL BRIEF FOR APPELLEE.

In regard to the points made in the brief for Appellant in reply, it seems to us not improper to add two or three suggestions, though they cannot be considered as very important, in view of what has already been said.

1. It is obvious that if it were possible for Smith to claim anything by reason of the fact that Woolfolk owed the estate of Todd, he could not claim the whole amount of the debt alleged to be due from Woolfolk to the administrator of Todd, because, the estate of the latter being insolvent, Smith could in no case claim anything more than a pro rata of the estate along with the other creditors, if anything

should remain over after payment of the expenses of administration. Otherwise Smith would get his claim in full, while other creditors of Todd's estate, equally meritorious, would probably get nothing.

2. The most that Smith could claim would be that he should have a decree over against the administrator of Todd for any amount that he might be compelled to pay Woolfolk. With such a decree he would come in upon the estate on terms of equality with the other creditors. No such relief is asked in this case by Smith against the estate of Todd. If it had been asked, it could not have been granted, that being a separate subject of litigation, and one over which a court of law would have exclusive jurisdiction.

Trapnall v. Hill, 31 Ark., 346.

White v. Reagan, 32 Id., 289.

"Now it is clear that courts of equity do not act upon the subject of set-off in respect of distinct and unconnected debts, unless some other peculiar equity has intervened, calling for relief; as, for example, where there has been a mutual credit given by each upon the footing of the debt of the other, so that a just presumption arises that the one is understood by the parties to go in liquidation or as set-off of the other."

Dade v. Irwin, 2 How., 391.
Hipp v. Babin, 19 Id., 278.
Gray v. Rollo, 18 Wall., 629.

On a question as to a breach of warranty in the deed from Todd to Smith there would be a constitutional right to

a trial by jury, which a court of equity could not take away.

Oelrichs v. Spain, 15 Wall. 228.

Morgan v. Beloit, 7 Id., 618.

In no case can there be a set-off in equity unless there is "a knowledge on both sides of an existing debt due to one party, and a credit by the other party, founded on, and trusting to this debt as a means of discharging it."

2 Story Equity, Sec. 1435.

3. On a bill to foreclose a mortgage no set-off can be allowed save on account of a debt growing out of the same transaction upon which the mortgage itself is based.

Nolley v. Rogers, 22 Ark., 230.

Troup v. Haight, Hopkins, 270.

This is a mere corollary from our second proposition. It is a rule of property in Arkansas, and as such is binding on the Federal Courts.

4. But even if such a set-off could have been pleaded in this case, it could only have been done by a cross-bill, making proper parties, and praying for appropriate relief.

Troup v. Haight, ubi sup.

This is the first time, so far as we know or have been informed, that it has been made to appear that any court has ever rendered a judgment or decree in favor of a plaintiff against a co-plaintiff between whom there was no controversy. If such a decree as this can be held valid, it

is clear that no man can ever safely go into court as a co-plaintiff after this. Counsel for Appellant say, in effect, that Woolfolk, being once in court, was bound to remain there until the end of the litigation. Admitting that to be true, it is only true as to any action that might be taken by adverse parties in the suit. As to them Woolfolk might, as he did, give over all effort, believing that farther litigation with them would not be profitable, and knowing that they had no claim that could be asserted against him. But what obligation was he under to remain in court to guard against a claim by his co-plaintiff, which he had no reason to suspect would ever be made in that suit, and which had been litigated to a final decree in two other suits? It might be possible to strike out the name of a co-plaintiff from a bill, and to insert it as that of a defendant. But how could that be done in this case without the consent of Woolfolk or the order of the court? And how could Woolfolk remain on the record as a co-plaintiff with Todd, and at the same time as a defendant. It is transparent that to support such a decree as that which was rendered in favor of Todd's administrator would be to uphold a proceeding without jurisdiction, and to assist in the perpetration of a great fraud, sought to be worked out and made effectual through the instrumentality of the courts.

Respectfully,

U. M. ROSE,

For Appellee.

P. S.—Since the foregoing was printed the Supreme Court of Arkansas has passed directly on one of the points argued in this case. A certified copy of so much of the opinion of that court as relates to that point will be filed in this cause, and a copy is here subjoined. Respectfully,

R.

STATE OF ARKANSAS,
IN THE SUPREME COURT.

Extract from the Opinion of the Supreme Court of Arkansas, Delivered January 17th, A. D. 1884, in the Case of

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JOEL RINGO, Ex'r, Etc., Appellant,
vs.
WILLIAM E. WOODRUFF, et al, Appellees.

APPEAL FROM PULASKI CHANCERY COURT.

"Several of the Defendants insist, in their respective answers, that the levy on Block ten, in Woodruff's Addition, to satisfy the execution on the judgment recovered by Plaintiff against Woodruff should be first exhausted before the sale of any part of the property described in Plaintiff's mortgage, and that in the event Plaintiff's mortgage should be held a valid and subsisting lien on the tracts, lots, and blocks respectively claimed by them, and the enforcement

thereof is not barred by the statutes of limitations, such tracts, lots, and blocks should be sold in the inverse order of the alienation thereof by Woodruff, until such liens shall be satisfied, and that so much thereof as shall then be unsold should be discharged of the lien; and that if Plaintiff is not required to exhaust the aforesaid levy before selling any part of the mortgaged premises and any part of the mortgaged property shall be sold to satisfy the lien held by the Plaintiff under his mortgage, those of them claiming the tract, lot, or block so sold should be subrogated to the rights acquired by Plaintiff under such levy. But neither of them made his answer a cross-complaint, or filed a cross-complaint. Failing to do this, there was lacking the pleading which was necessary to authorize the court below to grant to them such relief. For in asking this relief they seek to go beyond the inquiry proposed by the complaint and ask for relief against co-defendants, which is dependent on facts of which no statement is made in Plaintiff's complaint, and are not involved in the determination of the relief Plaintiff is entitled to, or in the determination of the questions presented by the allegations of his complaint, and are not responsive to the allegations of the complaint, and cannot be set up in opposition to the relief prayed for by Plaintiff. To obtain this relief insisted on by Defendants, as stated, it was necessary for them to have stated the facts upon which they demanded it, and asked for it, in an answer made a cross-complaint against the co-defendants, against whom the relief was sought. It was not sufficient to state the facts and ask for the relief in the answer, but the answer should have been made a cross-complaint

against the co-defendants who would have been affected by the relief if it had been granted. "Parties Defendants are as necessary to" cross-complaints "as to original" complaints "and their appearance in both cases is enforced by process in the same manner," unless there is a formal appearance entered on the record, or answer filed.

An answer in the nature of a cross-complaint "which makes nobody Defendant, which prays for no process, and under which no process is issued," as in this case, "is a nullity." Unless he be made a party Defendant in the answer in the nature of a cross-complaint in the manner indicated, the co-defendant is not required to answer the allegations constituting the grounds of relief asked for against him, and as corollary to this it follows no proof is required to disprove the allegations on which this relief is asked.

Gantt's Digest, Sec. 4550.
Mars v. Lewis, 31 Ark., 204.
Garner v. Beaty, 7 J. J. Marsh, 229.
Rogers v. Macham, 4 J. J. Marsh, 37.
Washington Railroad v. Bradley, 10 Wallace, 299."

In testimony that the foregoing is a true copy and extract from the opinion of the Supreme Court of Arkansas in the case in the caption hereof mentioned, I, Luke E. Barber, Clerk of said Supreme Court, hereto [SEAL.] set my hand and affix the seal of said Court at Little Rock, this January, 16, A. D., 1885.

LUKE E. BARBER, Clerk.
By P. D. ENGLISH, D. C.